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*Hon McTaggart*

# ROYAL COMMISSION

ON

## TRANSPORTATION

### HEARINGS

HELD AT

OTTAWA

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I N D E X

Page No.

CANADIAN TRUCKING ASSOCIATIONS, INC.

Mr. John A.D. Magee  
Mr. George H. Montague

Cross-examination  
By Mr. Sinclair

11343

COMMISSION

Mr. W. A. MacFarlane, C.S.

Mr. H. J. MacFarlane

Mr. A. H. MacFarlane

Mr. H. J. MacFarlane

NO EXHIBITS IN THIS VOLUME

Mr. H. J. MacFarlane

Mr. A. H. MacFarlane

COMMISSION COUNCIL

Mr. A. H. MacFarlane, C.S.

Mr. H. J. MacFarlane

Mr. H. J. MacFarlane

Mr. F. W. Anderson

Major H. Laffrance







ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held  
in the Court Room, Board of  
Transport Commissioners Offices,  
Ottawa, Ontario, on the 6th day  
of May, 1960.

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Ottawa, Ontario,  
Friday,  
May 6, 1960.

---On commencing at 10.00 a.m.

THE CHAIRMAN: Mr. Sinclair?

CROSS-EXAMINATION BY MR. SINCLAIR:

Q. Mr. Magee, before dealing with some of the sections of your submission, it may be helpful if I just ask you some questions to bring into focus the fundamental submissions of your association in its presentation to this Commission.

Now, in the first place - and you have made this clear, I think, in the answers that you have given to a number of my friends, that, fundamentally, Canadian Trucking Associations is concerned with maintaining private enterprise in the transportation industry in Canada.

MR. MAGEE: Yes, that is correct, Mr. Sinclair.

Q. And flowing from that fundamental point it is necessary, in Canadian Trucking Associations' view, that there should be a financially sound trucking industry in Canada?

MR. MAGEE: Yes, we believe that.

Q. And also a financially sound railway industry?

MR. MAGEE: Yes, we believe that, too,  
Mr. Sinclair.

Q. And, indeed, a financially sound shipping industry?

MR. MAGEE: Yes.

Q. And, indeed, a financially sound air









1  
2 transportation industry?

3 MR. MAGEE: Yes.

4 Q. Now, another fundamental issue, concept  
5 of Canadian Trucking Associations is that there should  
6 be a fostering of competition within various transportation  
7 media; that is to say, that there should be competition  
8 among truckers, among railways, among airlines, among  
9 shipping undertakings?

10 MR. MAGEE: Yes, we believe that there should be  
11 competition, and we also believe that if situations arise  
12 which may threaten the maintenance of competition there  
13 should be measures to preserve it, Mr. Sinclair.

14 Q. And, fundamentally, all transportation  
15 media in Canada, including the one that you have been  
16 here representing these last few days, are to be operated  
17 and regulated in what is loosely described as the public  
18 interest. It transcends, the public interest transcends.

19 MR. MAGEE: We believe that they should be  
20 operated in the public interest, regulation should occur  
21 in the public interest.

22 Q. And that regulation should only be intro-  
23 duced if the regulator of competition is not affected?

24 MR. MAGEE: We believe that regulation  
25 should also exist if it is necessary to preserve compet-  
26 ition.

27 Q. You want to have the test of the market  
28 place superseded, then, under certain conditions.

29 MR. MAGEE: We would call them - I would say  
30 that we would want to have the test of the market place  
exist; that is our belief.







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Q. That is fundamental.

MR. MAGEE: Yes.

Q. And on certain occasions that should be superseded, is it your view, for the protection of an interest.

MR. MAGEE: We believe that where there is a possibility that competition may be -- the continuance of competition may be undermined, that in addition to the test of the market place there must be some, what we would call, minimum regulation to preserve competition.

Q. Mr. Magee, if the regulator is competition and if regulation is introduced only to take the place of competition, then you either have competition or regulation; one supplants the other, does it not? That is the theory of competition, is it not, and the theory of regulations.

MR. MAGEE: We believe that competition can exist even when there is regulation, Mr. Sinclair.

Q. But I think you made this clear to Mr. Cooper, that competition can be destroyed by over-regulation?

MR. MAGEE: Well, we certainly don't believe that there should be over-regulation of transportation. I agree with that, Mr. Sinclair.

Q. And you would also agree that a transportation medium that carries its burden of taxation like all other profit-making organizations in the community is something that is without question of general benefit.

MR. MAGEE: I am sorry, could you --

Q. I say, do you agree that transportation







1  
2 carries its share of the income tax burden like all other  
3 profit-making organizations in the community and that  
4 should be unquestionably put down as in the public  
5 interest. There is no equivocation about that at all?

6 MR. MAGEE: Considered to be operating in the  
7 public interest?

8 Q. Yes.

9 MR. MAGEE: Well, provided all the other  
10 conditions it was fulfilling were properly attended to,  
11 I would say.

12 Q. Now, Sir Winston Churchill just recently  
13 put it this way: "Some socialists regard private enter-  
14 prise as a predatory tiger to be shot. Others look upon  
15 it as a cow to be milked. Only a handful see it for  
16 what it really is, a strong and willing horse that pulls  
17 the cart along." You would agree with that?

18 MR. MAGEE: Yes, I certainly would, Mr. Sinclair.

19 Q. Now, in view of the fundamental concepts  
20 that we have, maybe we could take a look at the Highway  
21 Transport Act as you have submitted it to this Commission.  
22 Possibly the best way to look at this is to list what  
23 it is intended to do, in principle, in regard to highway  
24 transport. First, maybe you would like to note these  
25 down along the side of your brief at the act, because  
26 I am going to come back and take a look at them with  
27 you in various aspects. I am sure you won't find them  
28 hard to agree with.

29 MR. MAGEE: I hope not.

30 Q. First, the Highway Transport Act that  
you propose does not in any way deal with intraprovincial







1  
2 highway transport.

3 MR. MAGEE: Well, I will make a note of that.

4 Q. It is drafted and it was intended to be  
5 drafted to deal with extraprovincial.

6 MR. MAGEE: Oh, yes, that is correct,  
7 Mr. Sinclair.

8 Q. And so therefore it is intended to exclude  
9 completely from its provisions intraprovincial highway  
10 transport?

11 MR. MAGEE: Except that it would include the  
12 intraprovincial components of extraprovincial undertakings.

13 Q. It would?

14 MR. MAGEE: Yes.

15 Q. In what section does it say that? Are  
16 you sure that that is what you intended to do?

17 MR. MAGEE: Well, I make that statement because,  
18 Mr. Sinclair, this is an act to control extraprovincial  
19 transport; and, as I understand the effect of the decision  
20 of the Judicial Committee of the Privy Council, it was  
21 that the intraprovincial components of the extraprovincial  
22 undertaking are one and indivisible and are all part of  
23 the one undertaking.

24 Q. It may be all part of the same undertaking,  
25 but it does not mean that when you try to regulate the  
26 undertaking you have to regulate all its components,  
27 and my question to you is: I take it, then, that you  
28 did intend to regulate the intraprovincial components  
29 of an extraprovincial highway transport undertaking.  
30 If that is what you intended to do - you may not have  
accomplished it, but what I am trying to find out is







1  
2 what you intended to do.

3 MR. MAGEE: Yes.

4 Q. You did intend that the bill that you  
5 proposed would result in control of intraprovincial  
6 components of an extraprovincial undertaking.

7 MR. HUME: I think it is fair to say - this  
8 is a legal question - that that is the intention so far  
9 as the judgment of the judicial committee of the Privy  
10 Council makes it effective. If some subsequent  
11 decision clarifies or interprets that judgment of the  
12 Privy Council so that it does not, then, of course,  
13 parliament of Canada could not regulate it, and that would  
14 be the end of it.

15 THE CHAIRMAN: I think, Mr. Hume, that the  
16 question is in order, because we have here a bill which  
17 reduces to writing the views of the association, and  
18 Mr. Sinclair merely wishes to know what was intended  
19 in the reduction to writing. Is that right,  
20 Mr. Sinclair?

21 (Page 11352 follows)  
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1 MR. SINCLAIR: That is correct, sir.

2 MR. MAGEE: What is intended is the regula-  
3 tion of extra-provincial highway transport, which is  
4 within the Jurisdiction of parliament.

5 MR. SINCLAIR: Q. You would intend, there-  
6 fore, to have, for instance in the Province of Alberta  
7 or the Province of Ontario, to have some kind of control  
8 on extra-provincial movements if they were part of  
9 an extra-provincial undertaking, as ones that were purely  
10 extra-provincial in their operation?

11 MR. MAGEE: They are within the jurisdiction  
12 of parliament and they would be covered, Mr. Sinclair.

13 Q. That is your intention?

14 MR. MAGEE: That is our intention.

15 Q. So, it would be your intention that some  
16 extra-provincial operations, for instance, in Alberta,  
17 would be controlled, and some wouldn't be controlled,  
18 because we have agreed that the Bill did not intend to  
19 deal with extra-provincial operations, except in so far  
20 as they were a combining of an extra-provincial under-  
21 taking?

22 MR. MAGEE: Yes. I think I should carry it  
23 a little further, and explain that we are hopeful that  
24 if the federal government accepts this legislation, if  
25 the Commission recommends it and the federal government  
26 excepts it, that it will be considered a standard by  
27 the province that is worthy of enactment provincially,  
28 but in provincial legislation for purely intra-provincial  
29 carriers.  
30







1 Q. Later on, Mr. Magee, I would suggest to you,  
2 maybe, a more expeditious way of bringing about that  
3 principle, but I am just now dealing with what this Bill  
4 was intended to do.

5 MR. MAGEE: Yes.

6 Q. Now, for the type of traffic as you have  
7 defined it, traffic movements and undertakings as you  
8 have defined it, this bill intends -- and this is my  
9 second point with you, and you may note this -- to cover  
10 the filing of rates and the publishing of rates?

11 MR. MAGEE: That is right.

12 Q. And it imposes penalties if such rates  
13 are not adhered to?

14 MR. MAGEE: That is right, Mr. Sinclair.

15 Q. And the next and third point, the bill  
16 intends to introduce special restrictive requirements  
17 for the entry of railways, shipping lines, or other  
18 transport media entering into the trucking field;  
19 correct?

20 MR. MAGEE: I am just thinking about that.  
21 I think we say in the Act that the test of whether  
22 the railways can enter the trucking field so far as  
23 the Board is concerned, would be the public interest.

24 Q. This is specifically set out, and it is  
25 intended to be a special restrictive requirement, is  
26 it not; that is what you intend it to be?

27 MR. MAGEE: It is intended to empower the  
28 Board to consider the matter on the basis of the public  
29 interest.  
30







1  
2 Q. We will get down to the question of public  
3 interest, but what your Associations intended was to  
4 have these sections impose a special restrictive require-  
5 ment before other media than highway transport could get  
6 into the highway transport; that is what you intended.  
7 Why you intended it doesn't matter right now, but that  
8 is what you intended?

9 MR. MAGEE: Well, Mr. Sinclair, we don't know  
10 what the Board might decide. It might not be restrictive.  
11 The Board might disagree with the views which we have  
12 expressed in this submission, and say that the unrestric-  
13 tive purchase of truck lines all the way across Canada  
14 is in the public interest and that they see nothing  
15 wrong with it and approve of its purchase and even its  
16 application for operating rights.

17 Q. Are you saying all you intended was to  
18 have on transfers of licences or transfers of control of  
19 trucking companies, that irrespective of who was to be  
20 the transferee or who was to be the purchaser, the same  
21 rules would apply no matter whether it was Fred Hume  
22 buying from John Magee or the Canadian Pacific buying  
23 from John Magee, the same rules would apply?

24 MR. MAGEE: I don't want to leave the impres-  
25 sion, Mr. Sinclair, we don't think that the entry of  
26 the railways into the trucking field is a special matter  
27 for consideration of the Board. We think that it is.

28 Q. That is what I was trying to get at.  
29 You do intend, then, to impose special requirements on  
30 the entry of the railways or shipping lines or air lines







1 to get into highway transport?

2  
3 MR. MAGEE: We ask that the Board be instructed  
4 in the legislation to take a special look at that situa-  
5 tion when it is considering the application.

6 Q. And therefore you have intended to impose  
7 special requirements in regard to their entry; that is,  
8 the entry of railways or air lines?

9 MR. MAGEE: It should be a consideration of  
10 whether it is in the public interest and is a matter for  
11 special consideration by the Board; that is what we  
12 recommend.

13 Q. If a motor carrier is transferring to a  
14 non-railway or non-shipping line, couldn't that be looked  
15 at in the public interest in exactly the same way as  
16 whether the railways or air lines are buying a trucking  
17 line? Why should there be a difference in the public  
18 interest? Why?

19 MR. MAGEE: We feel, Mr. Sinclair, that the  
20 entry of the railways into the trucking field, let us say  
21 by the purchase of truck lines, is a matter that at least  
22 requires that the Board be instructed to consider the  
23 public interest aspect of whether the competing rail  
24 carrier should be able to purchase not just that truck  
25 line, but it may be the 17th purchase they were consider-  
26 ing or the 25th. Now, surely when it is being done by  
27 the railway, and the undertaking that it is being  
28 purchased by a competing trucking system or trucking  
29 firm, that is a matter that should be looked at in the  
30 public interest.





1 Q. You have a whole section of your brief  
2 on this, and I will come back to that later, but it was  
3 your intention to impose upon railways and other  
4 transportation media special restrictions in regard  
5 to moving in, special considerations which are special  
6 restrictions?

7 MR. MAGEE: I will go as far with you as  
8 special considerations; I don't see how it can be said  
9 to be restrictive until we see what the Board itself  
10 thinks.

11 THE CHAIRMAN: You don't want to encourage,  
12 but to discourage anybody coming into the media?

13 MR. MAGEE: That is right, Mr. Chairman.

14 MR. SINCLAIR: Q. The next point is that  
15 behind this bill was the intention to prevent or make  
16 it difficult or impose special considerations that  
17 would make it difficult to bring about complete  
18 integration of transportation media; that was one of  
19 your intentions?  
20  
21  
22  
23  
24

25 (Page 11362 follows)  
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2 MR. MAGEE: Well, if we look at that question  
3 on the basis of what the railway -- let us take, for  
4 example, the railway going into trucking.

5 Q. All I am looking for is your intention.  
6 I am going to come back to this. I am trying to get  
7 what was your intention in regard to this legislation.  
8 It was your intention, I take it, to discourage -- let  
9 us use that word -- integration of transportation media,  
10 particularly trucks and rail?

11 MR. MAGEE: Well, I was trying to answer your  
12 question by using an example.

13 Q. Maybe you would tell me "Yes" or "No",  
14 and then give me the example.

15 THE CHAIRMAN: Let him answer, Mr. Sinclair.

16 MR. MAGEE: I was going to put it this way:  
17 It is quite clear that we prefer to have -- and we  
18 think it is in the public interest that the railroads  
19 and trucking industry remain competitive. However,  
20 if a railway succeeds in an application for operating  
21 rights or makes the purchase of a truck line, then we  
22 have no opposition whatever to the railway, within the  
23 bounds of the existing regulations for rail and truck,  
24 integrating this service with its own company. I don't  
25 see how we could.

26 MR. SINCLAIR: Q. You have no objection,  
27 once they have the authority to operate, for them to  
28 operate in whatever way they wish, but you would like to  
29 discourage them being in a position to integrate?

30 MR. MAGEE: I don't know whether we get as  
far as integration in our submission, because we are







1  
2 opposed to the railways being in a position to buy out  
3 trucks.

4 Q. Didn't you say yesterday the Canadian  
5 Trucking Associations were against integration? I  
6 made a note that you did; it may be my note is wrong  
7 and, if it is, let us clear it up now.

8 MR. MAGEE: Maybe we are on two different  
9 meanings of the word "integration". The type of  
10 integration I thought you were asking me about now  
11 is the integration of existing or differing services  
12 that are under the control of the railway.

13 Q. What I have in mind in "integration"  
14 is using the various transport media in truck combinations  
15 as the common management of these various transport media  
16 will make possible.

17 MR. MAGEE: By going out and buying more  
18 truck lines?

19 Q. By doing whatever is necessary to integrate  
20 and to use a combination of the various transport media  
21 in the way that the common owner would think best.

22 MR. MAGEE: Well, the type of integration  
23 that implies a further entry into the trucking field,  
24 we are opposed to.

25 Q. Do you think that integration of various  
26 transport media under common ownership is a good thing?  
27 Assuming they have authority now, do you think that is a  
28 good thing or a bad thing?

29 MR. MAGEE: We can't see the advantages that  
30 have been claimed for it. We believe in co-operation  
among transport agencies.





1  
2 Q. You can't see the advantages of it, but  
3 you don't disagree with it in so far as the railway  
4 companies or steamship lines now have authority, but you  
5 don't want to see any more; is that right?

6 MR. MAGEE: Well, it amounts to this: We  
7 don't want to see the thing that makes integration  
8 possible, and that is the buying out of truck lines by  
9 the railways.

10 Q. So it flows from that, I take it, that if  
11 what makes integration possible is the buying out of  
12 truck lines, you must be against integration in principle?

13 MR. MAGEE: Yes, we are opposed to that kind  
14 of integration.

15 Q. And that was intended to be covered by this  
16 bill?

17 MR. MAGEE: I know of no provision in the bill,  
18 subject to correction by our counsel, that deals with this  
19 matter other than ---

20 Q. Section 8?

21 MR. MAGEE: --- other than the requirement that  
22 the Board look at the matter from the standpoint of the  
23 public interest. Section 8?

24 Q. Yes; section 8 (2).

25 MR. MAGEE: Yes.

26 Q. That is what you have in mind there: All  
27 right.

28 MR. MAGEE: Excuse me a minute: I want to  
29 look, if I may, at that section.

30 MR. HUME: It is on page 10.23.

MR. MAGEE: I don't think I am on record as







1  
2 making an answer in regard to that particular section.

3 MR. SINCLAIR: Q. Now, you have read it,  
4 is that one of the intentions of that section?

5 MR. MAGEE: What, Mr. Sinclair?

6 Q. We were thinking and talking and discussing  
7 integration.

8 MR. MAGEE: Yes.

9 Q. Is that one of the intentions of that  
10 section?

11 MR. MAGEE: It is the intention of that section  
12 that the Board will be instructed to take a particular  
13 look at the entry of the railway into the trucking field  
14 achieved by that means.

15 Q. Having in mind integration? Is that the  
16 intention, that that would have some effect on integration?

17 MR. MAGEE: Well, if the railway intended to  
18 integrate, if it succeeded in this application, and that  
19 was what was in its mind when it made the application,  
20 that would flow from what we believe here.

21 Q. And if the railways said that what they  
22 had in mind was to integrate it, you would oppose it  
23 on that basis, would you?

24 MR. MAGEE: Yes, we would be opposed to the  
25 application under our policy. We are opposed to railway  
26 entry into the field of trucking.

27 Q. Let us do it again. I am quite sure it  
28 is my fault ---

29 MR. MAGEE: No, it may be mine.

30 Q. You don't seem to understand my question. I  
am saying, if the railways made an application to acquire a







1  
2 trucking line for the purpose of integration, you would  
3 oppose that application and oppose the principle of  
4 integration upon which the application was based, would  
5 you?

6 MR. MAGEE: Integration means a lessening of  
7 the competition in transportation, and is a word that has  
8 been used often to cover grand schemes of semi-monopoly  
9 of the transportation industry, I think sometimes in the  
10 United States in connection with proposals that have  
11 come from the railroads.

12 Q. Let us just stay in Canada; we are broad  
13 enough in Canada to deal with our own problems, and while  
14 we can learn something from the United States on occasion,  
15 let us stay where the voting is done without going off to  
16 Tokyo or any other place like that.

17 MR. MAGEE: Mr. Archambault is in the Lebanon  
18 now.

19 Q. Well, he is certainly doing the grand  
20 tour.

21 MR. MAGEE: He is indeed.

22 Q. And I envy him, and I am sure you do --  
23 or, you will. Now, Mr. Magee, we are back again, and  
24 I hope you don't think I am going to be dissuaded from  
25 getting an answer from you by running me down to Tokyo  
26 and the Lebanon and places like that.

27 MR. MAGEE: I know I can't do that.

28 Q. Well, I think you will make faster yards  
29 if you don't try. Let us take a look at it again and  
30 say that if a railway made an application to acquire a  
trucking company for the announced purpose of integrating





1  
2 that trucking organization with its other transportation  
3 undertakings, then C. T. A. would oppose it under clause  
4 8 (2) of this bill, if it was enacted, on the basis that  
5 they were against integration?

6 MR. MAGEE: Yes, if it implies -- it implies  
7 a lessening of competition in transportation, and we  
8 would oppose it.

9 Q. And, notwithstanding, you would oppose it  
10 even though the rates that were to be charged by the  
11 railway or by the trucking company were controlled?

12 MR. MAGEE: Yes.

13 Q. And would you oppose it, notwithstanding  
14 that by integration there could be an over-all reduction  
15 of transportation costs?

16 MR. MAGEE: You mean that it would be contended  
17 in the application that there would be an over-all  
18 reduction in transportation costs. We would oppose it,  
19 Mr. Sinclair.

20 Q. And would you oppose it, notwithstanding  
21 it would be shown that there would be, in the over-all  
22 operation of integration, an improvement in service?

23 MR. MAGEE: Well, you are asking me to comment  
24 now on the application being made by the railway in this  
25 particular instance?

26 Q. I am asking you to look at the situation  
27 where the railway says, "We are now moving goods by  
28 rail, or we are moving them by ferry, or by truck, in  
29 a certain way, and we are going to consolidate them and  
30 move them on Mondays, Wednesdays and Fridays by rail,  
and on Tuesdays, Thursdays and Saturdays by truck".







1  
2 MR. MAGEE: Yes.

3 Q. "And in this way all traffic moving is  
4 getting better service overall": Would you oppose that?

5 MR. MAGEE: If there was existing independent  
6 truck service there that could work in co-operation with  
7 the railway, we would oppose.

8 Q. In other words, you would oppose it, not-  
9 withstanding that to handle that total amount of business  
10 would require a substantial development of the existing  
11 truck line -- it might have to get two or three times  
12 bigger than it was; would you still oppose it?

13 MR. MAGEE: We are going into a lot of hypothet-  
14 ical situations in regard to this application.

15 Q. We have to because you have a bill here  
16 and you have got it down in written language, and we  
17 have to find out what was intended.

18 THE CHAIRMAN: Well, we may take an individual  
19 case: For instance, if the C. P. R. were buying control  
20 of Smith Transport, would you oppose it, and why, before  
21 this Board?

22 MR. SINCLAIR: Mr. Chairman, not only would they  
23 oppose it. They did oppose it; it was tested out; they  
24 fought it on the basis put forward by this witness at  
25 this time, and their opposition was defeated -- and this  
26 was given in evidence yesterday -- and the whole issue  
27 they were fighting was the issue of public interest on  
28 the basis that he is now putting forward. So, that is  
29 a poor example. So let us get a good one.

30 MR. MAGEE: It never went to appeal.

MR. SINCLAIR: Q. Well, there are only two







1  
2 things after you get a judgment against you, and that  
3 is to appeal or to abuse the other fellow's counsel.  
4 There are only two ways of doing it, and we, in this  
5 business, know that.

6 MR. MAGEE: We don't abuse other people's  
7 counsel.

8 Q. I said, there are only two ways.

9 MR. MAGEE: Yes.

10 Q. And you took neither of them: You didn't  
11 appeal, and you have made it clear you don't do the  
12 other.

13 MR. MAGEE: We had made a decision to appeal  
14 it, but under pressure we had to reverse our decision.

15 Q. You reversed it, in any event. Let me  
16 give you an example, to follow along with the Chairman's  
17 view. We will say that there is an operation by  
18 Canadian Pacific at Saint John, New Brunswick: It  
19 operates there a ferry service across to Nova Scotia.

20 MR. MAGEE: Yes.

21 Q. It also operates a railway.

22 MR. MAGEE: Yes.

23 Q. ...in which it is able to interchange  
24 with Canadian National to deliver certain traffic in  
25 Nova Scotia?

26 MR. MAGEE: Yes.

27 Q. All right. Now, it decides to buy a  
28 truck line that operates from New Brunswick to Nova  
29 Scotia, and it says the purpose of doing this is to  
30 enable it to handle more cheaply, and to provide better  
service, the movement of goods entrusted to Canadian





1  
2 Pacific for movement by rail or water or by highway:  
3 Would you oppose that?

4 MR. MAGEE: On the basis of our policy that  
5 we are instructed to carry out, we would have to oppose  
6 it.

7 COMMISSIONER MANN: Before you go on,  
8 Mr. Sinclair, I wonder whether you would clear something  
9 up for me. Section 8 (2) does seem to recognize that  
10 it may be in the public interest to have an integrated  
11 operation.

12 MR. MAGEE: Yes, Mr. Mann.

13 COMMISSIONER MANN: Now, if that is so,  
14 I can't quite see how the association is opposed in  
15 principle to integration. You see, this is my difficulty  
16 -- and I am trying to get this clear in my mind: If  
17 the association, in other words, believes that there  
18 is scope for integration, because the Board can so rule,  
19 then how do you oppose the thing in principle? There  
20 must be some occasions on which the public interest  
21 requires integration as per the ruling of the Board.  
22 If you can't give me an answer now, you could perhaps  
23 think about it.

24 MR. MAGEE: My answer would be this, that I  
25 am bound to some extent in the answers I am giving right  
26 now by the policy of the association, and there may be  
27 a certain rigidity in the wording of the policy that  
28 governs my answers.

29 COMMISSIONER MANN: Perhaps, Mr. Magee, you  
30 might discuss that with Mr. Hume.

MR. HUME: Mr. Commissioner, without interrupting







1  
2 my friend, who has decided -- is this prejudged, that  
3 is within the public interest, before the hearing comes  
4 on? Who decides that? If you could let me know that,  
5 it would influence the answer.

6 COMMISSIONER MANN: Let me do this again:  
7 Mr. Magee, in reply to Mr. Sinclair, said the associa-  
8 tion opposes integration in principle. I think that  
9 is what I remember -- "in principle".

10 MR. SINCLAIR: Yes, I got that answer.

11 COMMISSIONER MANN: Now, if the association  
12 opposes integration in principle, then how can it, in  
13 drafting the act, foresee the possibility of integration  
14 being in the public interest and therefore being good?  
15 I may be missing a connecting link, but this is what is  
16 not clear to me.

17 MR. HUME: Well, I think I have your point,  
18 Mr. Commissioner. I will deal with it in argument.

19 THE CHAIRMAN: That is, it is not straight  
20 prohibition in the act.

21 MR. MAGEE: No, we don't think it is.

22 MR. SINCLAIR: I think I will possibly be  
23 able to suggest to the witness the reason for this  
24 opposition in principle in just a moment when I come  
25 back to each of these points.

26 Q. Now, the intention also of this bill  
27 is to limit the maximum amount of traffic that can  
28 be covered by an agreed charge for movement by hire;  
29 that is correct?

30 MR. MAGEE: That is correct, Mr. Sinclair.

Q. And it is intended further to provide for







1  
2 the filing of competitive rates by highway operators  
3 without any of such operators in their competitive rates  
4 having an obligation that such rates be compensatory;  
5 correct?

6 MR. MAGEE: Our intention is that all the  
7 provisions in the act dealing with the things that the  
8 Board would look at on an appeal against a rate would  
9 apply also to competitive rates.  
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1 Q. Oh, well, then you would want it made  
2 clear, then, that any compensatory rates filed be  
3 compensatory or they would be illegal rates?  
4

5 MR. MAGEE: Yes.

6 Q. And by compensatory you, of course, would  
7 intend that they would meet their variable cost and  
8 something over; correct?

9 MR. MONTAGUE: I think that is the general  
10 principle that we intend in this Act. I am hesitant  
11 because there are so many definitions, but I think you  
12 are driving at the principle that as long as we can  
13 cover the immediate operating costs of that operation,  
14 then it is compensatory?

15 Q. No, I am not driving at that point of  
16 view. I am driving at what I put to the witness, that  
17 the rates are compensatory, and that, in railway terms,  
18 is that they meet variable costs and something more. I  
19 will discuss your suggestion as to cost terms later.  
20 If that is not what you intend, then say so. I am not  
21 going to argue this point at this time. I am just  
22 trying to find out what you intend?

23 MR. MONTAGUE: Unfortunately, I can't go any  
24 further than the answer I have given.

25 Q. You would be prepared, then, to put in a  
26 clause that no competitive rate shall be filed that is  
27 less than compensatory, meaning a rate that more than  
28 meets the direct operating costs of the movement in-  
29 volved?

30 MR. MAGEE: I don't think we are going to define







1 that word "compensatory" right now. It is not defined  
2 in the Railway Act, and I do not think we are in the  
3 position at the moment to define it here.

4 Q. Would you like to define it, because I  
5 will be asking you after the recess and after the noon  
6 adjournment, and maybe you could take a look at that  
7 and discuss it with your cost analyst?

8 MR. MAGEE: We will think about it, and if  
9 we can give you an answer we will, Mr. Sinclair.

10 Q. Thank you very much, Mr. Magee.

11 Now, this bill also attempts to prevent  
12 forwarders and shippers associations from moving traffic  
13 by highway.

14 MR. MAGEE: What section have you in mind  
15 there, Mr. Sinclair?

16 Q. It is 9, on page 10.23. That is the  
17 intent of that section?

18 COMMISSIONER MANN: Do you include shippers'  
19 associations in that?

20 MR. SINCLAIR: Yes, I do. I asked him if  
21 he intended to do it.

22 Q. Did you intend by this Act to prevent  
23 forwarders and shippers associations from pooling  
24 traffic and moving it by highway?

25 MR. MAGEE: We believe and intend that those  
26 who use the highways for the movement of commerce for  
27 hire be properly licensed under the existing laws  
28 governing highway transport operations.

29 Q. Clause 9. Don't assume, Mr. Magee;  
30





1  
2 because I am asking you these questions that I think  
3 they are wrong in any way. I am just trying to find  
4 out whether you intended them or not.

5 MR. MAGEE: Well, I have made our position  
6 clear, Mr. Sinclair.

7 Q. Under 9, I am asking you: was it the  
8 intention of Canadian Trucking Associations to prohibit  
9 forwarders' associations, forwarders, from gathering  
10 traffic together, pooling it and moving it over the  
11 highway?

12 MR. MAGEE: Not if they comply with the con-  
13 ditions which I gave in answer to this question the  
14 other day, Mr. Sinclair, that is, that they be properly  
15 licensed as highway transport operators. If you pre-  
16 fer, I can give you the answer again.

17 Q. I don't want you to repeat anything.  
18 We will take a look at it.

19 "No person shall solicit by means of ad-  
20 vertising or otherwise, or undertake to arrange,  
21 extra-provincial transport unless the person by,  
22 for, or on behalf of whom the extra-provincial  
23 transport is operated is licensed under this  
24 Act to perform the transportation that is the  
25 object of such advertising or undertaking in  
26 the province or provinces in or through which  
27 the transportation is or is to be undertaken."

28 That would, I take it, prevent Magee Forwarding Corpora-  
29 tion from taking Mr. Hume's and Mr. McDonald's and Mr.  
30 Burbidge's l.c.l. shipments, picking them up and putting







1 them together and shipping them as the Magee Forwarders  
2 Association. That is what you intended to do?

3 MR. MAGEE: So that I can understand everything  
4 involved here -- do you mean without a licence from the  
5 regulatory authority that controls trucks?

6 Q. Well, it would be shipping the goods that  
7 were in its custody on its behalf to a warehouse in  
8 Winnipeg where it would break bulk and deliver them.

9 MR. MAGEE: We believe that operation, if it  
10 is a for-hire operation, that is a person holding them-  
11 selves out for the carriage of goods on the highways,  
12 then they should be properly licensed.

13 Q. As a public carrier for-hire carrier?

14 MR. MAGEE: Yes.

15 Q. Now, we will take Simpsons, Kresges and  
16 Woolworths, and other comparable organizations, and  
17 they band together and they call the outfit when they  
18 band together -- the suggestion is made that we call  
19 it something like Kum Winnipeg, and they ship it Kum  
20 Winnipeg ex Montreal. Under section 9, would you  
21 intend to prohibit them from moving those goods that  
22 they have assembled in that way over the highway?

23 MR. HUME: Are they shipping their own goods?

24 MR. SINCLAIR: The goods are in their custody  
25 and the title, we will say, has passed to them as  
26 Kum Winnipeg, the title of the goods is in the name of  
27 Kum Winnipeg, for the purposes of transport.

28 MR. MAGEE: Well, if that is a for-hire  
29 operation, we believe that they should be licensed, Mr.  
30





1  
2 Sinclair, but if a shipper is using his own vehicles to  
3 haul his own goods and on his own trucks, we have never  
4 suggested any form of restriction on that.

5 Q. Would Canadian Trucking Associations  
6 object to the arrangement I have brought to your atten-  
7 tion, that is a shippers association, the title of the  
8 goods being in the name of Kum Winnipeg, and they were  
9 going to move them over the highway on their own Kum  
10 Winnipeg trucks?

11 MR. MAGEE: I wonder if I could give the  
12 answer to that a little later. It involves a question  
13 of policy.

14 MR. HUME: If I am going to help him -- is title  
15 passing to -- this is vital to this thing -- if the title  
16 passes to Kum Winnipeg, is the title passing merely as  
17 a subterfuge to ship the goods so that they are owned  
18 by ---

19 MR. SINCLAIR: Well, Mr. Chairman, it may be  
20 vital, but I am surprised at my learned friend -- and I  
21 have picked the name with care -- for him to suggest  
22 that anything that was associated with it would be a  
23 subterfuge. It would be first a series of transactions  
24 that would do exactly what I said it would do. It would  
25 result in title to the goods passing to Kum Winnipeg  
26 for the purposes of transportation ex Montreal.

27 THE CHAIRMAN: What Mr. Hume is suggesting  
28 is would there be a sham transaction.

29 MR. HUME: Yes. This situation, of course,  
30 has existed for a good many years in truck transport, and







1  
2 you have the situation, as Commissioner Mann brought  
3 out, in the United States where a trucker buys the  
4 grain, owns it and moves it to some transportation point.  
5 I am just wondering if Mr. Sinclair, in his hypothetical  
6 case, is suggesting that the Kum Winnipeg organization  
7 is merely the owner for the purposes of transportation.  
8 If that is the case, I will be very glad to discuss it  
9 with Mr. Magee.

10 MR. SINCLAIR: I would like to make clear to  
11 the Commission and my friend that it is not a subterfuge,  
12 it is not a sham; it is a proper legal arrangement in  
13 which liabilities and obligations flow in accordance  
14 with the law of title. I want that made clear, because  
15 it would be a legal transaction under an enforceable  
16 contract between the parties.

17 Q. Now, the next point that I have is that  
18 this bill intends to protect existing rights of highway  
19 operators in extra-provincial movements by highway, it  
20 intends to protect the existing operating certificates  
21 of such operators, by what is known sometimes as the  
22 grandfather clause. That is your interpretation of  
23 it?

24 MR. MAGEE: Yes, simply to avoid having to have  
25 all of these matters re-heard, Mr. Sinclair.

26 Q. I don't care why, but this is the intent,  
27 to protect the existing operating certificates of  
28 present operators in extra-provincial service.

29 MR. MAGEE: Yes, pass them on under the Act.

30 COMMISSIONER ANSCOMB: Mr. Sinclair, may I ask





1  
2 you, with great respect, because I am not a member of  
3 the legal profession -- I find it difficult to see why  
4 title passes for the ownership of these goods when they  
5 are being shipped by people on a  
6 truck to Winnipeg. Why does title pass to the shipper?

7 MR. SINCLAIR: Because that is the basis of  
8 the arrangement that they entered into and that I put  
9 to my friend for his answer. It is because possibly  
10 the shipper does not want to be concerned with risks  
11 involved, with financing of goods in transit. There  
12 are a million reasons I could state if I was pressed as  
13 to why he would get title.

14 COMMISSIONER ANSCOMB: Let us assume you and  
15 I were living in Victoria and had nothing to do with  
16 each other other than we wanted to ship something by  
17 truck. You might own the truck or someone else might  
18 own the truck, and we decide to ship them to Winnipeg.  
19 Does the title of the goods have to pass to the shipper?

20 MR. SINCLAIR: If I were a common carrier  
21 and I had a licence to go from Victoria to Winnipeg, I  
22 could ship them with a for-hire carrier, because he  
23 holds himself out to carry goods for any person. But  
24 the situation I put is where a group of manufacturers  
25 in Victoria decide to pool their traffic and transfer  
26 title of it so they didn't have to worry about it, and  
27 they gave it to the Kum Winnipeg organization and they  
28 would get title, and when they got them to Winnipeg  
29 Kum Winnipeg would dispose of the goods in accordance  
30 with their business principles in what they were doing.







1  
2 COMMISSIONER ANSCOMB: If they decided to  
3 transfer the title. But, in fact, they don't have to.

4 MR. SINCLAIR: No. If they didn't want to  
5 enter into this kind of arrangement, they could ship it  
6 from Victoria to Winnipeg, unfortunately by CTA, sir,  
7 and there are other means of getting it there.

8 Q. Let us go on, then, Mr. Magee. The next  
9 point that you intended to cover by bill is that you  
10 intended to have a joint board, and that this board  
11 would consistently apply the principles of legislation.

12 MR. MAGEE: That is correct, Mr. Sinclair.

13 Q. And the bill also intended to prevent a  
14 deadlock where there is a movement between two or more  
15 provinces by providing for appeal to the Minister of  
16 Transport in Canada?

17 MR. MAGEE: Yes.

18 Q. And, finally, it intended to be political-  
19 ly acceptable, both provincially and federally?

20 MR. MAGEE: We hope it would be politically  
21 acceptable both provincially and federally, Mr. Sinclair.  
22 That is certainly a consideration when you are making  
23 legislative recommendations.

24 Q. You not only hoped it, you intended it?

25 MR. MAGEE: Well, it is not a governing  
26 factor, Mr. Sinclair. Canadian Trucking Associations,  
27 like other organizations, sometimes has to forget about  
28 political considerations and make their fight for what  
29 is right.

30 Q. Did you intend to make it politically





1  
2 acceptable both federally and provincially, or did you  
3 wipe away your thoughts of political problems of the  
4 trucking industry and say here is what is right, we  
5 will worry about the political situations later? Which  
6 is it? Because, you see, you said to me at the start  
7 that politics -- and there is nothing wrong with  
8 politics, it is a very necessary thing, and it is some-  
9 thing to look up to -- that politics is a fact of life.

10 MR. MAGEE: Yes, it certainly is.

11 THE CHAIRMAN: The science of government.

12 MR. SINCLAIR: The science of government is  
13 one way of expressing it.

14 MR. MAGEE: Political considerations, if you  
15 are referring to the leaving of the control in the hands  
16 of the provincial boards as the federal regulatory  
17 agencies, did not enter into that.

18 Q. That wasn't part of that decision at all?

19 MR. MAGEE: No. The reason why we did that  
20 was because of the trucking industry's long-standing  
21 belief that the controls should not be under a board in  
22 Ottawa.

23 Q. If there is a board in Winnipeg, in the  
24 centre of Canada, a single board in Winnipeg right in  
25 the centre of this great country, would CTA have any  
26 objection to it?

27 MR. MAGEE: I have heard Winnipeg discussed  
28 occasionally, but I think we prefer a joint transport  
29 board.

30 THE CHAIRMAN: Mr. Sinclair is really loyal  
to Winnipeg.







1  
2 MR. MAGEE: Yes, he certainly is, Mr. Chair-  
3 man.

4 MR. SINCLAIR: Q. You don't want one board  
5 in Ottawa. Is it that you don't want it to be located  
6 in Ottawa, or is it you don't want one board? Maybe  
7 this board could be set up and function at all times  
8 in Victoria?

9 MR. MAGEE: Yes.

10 Q. Would that be satisfactory to CTA?

11 MR. MAGEE: In regard to the joint transport  
12 board that we propose?

13 Q. There would be one single board sitting  
14 at all times in Victoria.

15 MR. MAGEE: We don't believe in that type  
16 of mechanism to achieve the control. If they decided  
17 to establish some headquarters in Ottawa or some  
18 secretariat here, we would have no objection to that.

19 Q. You said there were no political  
20 considerations in the mind of CTA when they put the  
21 control under provincial boards?

22 MR. MAGEE: Yes, and that is a fact, too.

23 Q. You said that you didn't want a single  
24 board situated at Ottawa. You don't want a single  
25 federally appointed board to control the federal  
26 jurisdiction over highway transport. Is that what  
27 you don't want?

28 MR. MAGEE: We don't want that type of  
29 federal board, Mr. Sinclair, quite right. We believe  
30 that the type of federal board that should exist is the





1 one that is set out in this proposed legislation.

2  
3 Q. Mr. Magee, I want to come back to this  
4 for some reasons later, and I want to know whether  
5 it is that you don't want a federally appointed single  
6 board but you will only accept and you intend only to  
7 propose a board appointed by the province to which  
8 federal authority is delegated, leaving aside some  
9 things which work from that word?

10 MR. MAGEE: Well, you made the statement in  
11 asking that question, one statement there which makes it  
12 a little difficult for me to answer this question. You  
13 said we will only accept. We will have to accept what-  
14 ever the parliament of Canada does in regard to the  
15 matter of truck control.

16 Q. Accept is a matter that you will espouse.  
17 That is what I mean by the word "accept".

18 MR. MAGEE: Yes.

19 Q. You are only espousing or you will only  
20 support for recommendation purposes a board that is  
21 appointed federally by its delegation of its regulatory  
22 authority to a provincially appointed board?

23 MR. MAGEE: Yes, that is the only kind of  
24 board that we propose is the submission.

25  
26  
27 (Page 11388 follows)  
28  
29  
30







1  
2 Q. Now, Mr. Magee, just before the break you  
3 were talking about this joint board and what kind of a  
4 board it was to be.

5 MR. MAGEE: Yes.

6 Q. As I understand it, - I think we can be  
7 fair on this - this board is to be a perambulating board  
8 and it would hold hearings in various parts of Canada.

9 MR. MAGEE: Yes.

10 Q. Depending on where the applications they  
11 were dealing with arose; correct?

12 MR. MAGEE: Yes, it could move from place to  
13 place, that is right.

14 Q. And its personnel would be made up of  
15 members of the provincially appointed, provincially  
16 regulating transport board?

17 MR. MAGEE: Yes.

18 Q. And it would have on its membership members  
19 from each of the provinces involved in the specific matter  
20 that was before it?

21 MR. HUME: "a" singular.

22 MR. SINCLAIR: Q. A single member from each  
23 of the provinces, as my friend Mr. Hume points out, that  
24 were involved in the specific matter before it.

25 MR. MAGEE: Yes.

26 Q. And it is clear that it was the intention  
27 of this legislation to have this regulatory board - now  
28 called a joint board - that the personnel not be appointed  
29 by the federal government, but the personnel be appointed  
30 by provincial government; that was the intention?

MR. MAGEE: Yes.





1  
2 Q. Now, we have got that clear and, Mr. Magee,  
3 I think the least of what the bill was intended to do,  
4 as I now want to turn to the purpose of the legislation, and  
5 you made the purpose of the legislation clear yesterday  
6 in answer to Mr. Frawley. This is at page 11307, and  
7 I will show it to you so that you can see it.  
8 Mr. Frawley asked you,

9 "For whose benefit would this statute be passed".

10 MR. MAGEE: Yes.

11 Q. And then he listed certain people that  
12 might be benefited, including the railways and the  
13 shippers, and so on, and your answer as I have underlined  
14 it there, Mr. Magee, is that the purpose of the legis-  
15 lation would be,

16 "For the benefit of the public and for the benefit  
17 of the trucking industry."

18 MR. MAGEE: That is the answer I gave.

19 Q. And you don't want to chage that?

20 MR. MAGEE: No, I don't.

21 Q. So we now have it clear that this is  
22 what we are looking at; the purpose of the legislation  
23 is for the benefit of the public and the trucking industry.  
24 Mr. Magee, I think it is clear and it would be extremely  
25 clear to the Commission, I am certain, that the benefits  
26 to the trucking industry, as a trucking industry, are  
27 clear.

28 MR. MAGEE: Yes.

29 Q. There is no doubt about that; they are  
30 spelled out in many places in the brief, and what may  
not be so clear is the benefit to the public interest;







1  
2 that is also supposed to be the concomitant result  
3 of the benefit to the trucking industry, as you intended  
4 for the purposes of this legislation; correct?

5 MR. MAGEE: Yes.

6 Q. Now, turning to the various things we  
7 discussed and which we are looking at now that would  
8 assist the public interest, the first point we dealt with  
9 was that the intent of the bill was to regulate extra-  
10 provincial trucking and the intraprovincial component of  
11 extraprovincial trucking, and nothing else; correct?  
12 I just want to state it again so you will have it before  
13 you.

14 MR. MAGEE: Yes, extraprovincial trucking  
15 under the jurisdiction of parliament.

16 Q. Including the intraprovincial component  
17 of an extraprovincial undertaking, which you made clear  
18 in your answer to me.

19 MR. MAGEE: Yes, that is right, Mr. Sinclair.

20 Q. Now, that segment of the trucking industry  
21 is the small part; it is a small part of the trucking  
22 industry, percentagewise, of the for-hire trucking industry?

23 MR. MAGEE: The extraprovincial part?

24 Q. Yes, 15 per cent.

25 MR. MAGEE: I think we gave some figures on  
26 it, Mr. Sinclair; I will just look them up.

27 Q. Approximately. It is less than one-  
28 fifth?

29 MR. MAGEE: Yes, I will just look it up here.  
30 We said on page 10.12, paragraph 37, that the Dominion  
Bureau of Statistics motor transport traffic statistics





1  
2 showed that it was one-third of the industry's output  
3 measured in ton miles, and one-fifth of the industry's  
4 revenues came from the interprovincial and international  
5 freight carriers.

6 Q. It is a small proportion; you would agree  
7 with that?

8 MR. MAGEE: Smaller than the extraprovincial.

9 Q. Very much smaller; after all, it is two-  
10 thirds on one basis and one-fifth on the other.

11 MR. MAGEE: But it is by far the fastest  
12 growing section of the trucking industry.

13 Q. Well, as of now, Mr. Magee, it is the  
14 small segment of the industry by a substantial degree,  
15 by whatever test you want to take; surely there is no  
16 difficulty in that?

17 MR. MAGEE: Yes.

18 Q. Now, if it is in the public --

19 MR. MAGEE: Excuse me a minute; I want to make  
20 sure that my answer is accurate.

21 Q. Now, the purpose of regulation being in  
22 the public interest, if it is good for the small part  
23 it would be better if it was applied to the big part,  
24 wouldn't it, because there public interest would have  
25 a greater play.

26 MR. MAGEE: Yes, we hope it will apply to the  
27 big part.

28 Q. So that the public interest, you say,  
29 would be better served if all of the trucking industry  
30 in Canada was regulated in accordance with the material  
and data -- and for the purposes and intents -- that you







1  
2 set out in this bill; correct?

3 MR. MAGEE: Well, we are dealing here with the  
4 extraprovincial carriers; that is as far as I can go.  
5 Those are the people that are dealt with here.

6 Q. What I am now dealing with is how does this  
7 bill affect the public interest, and my question to you  
8 was this; that if it is in the public interest to regulate,  
9 as you have proposed, a small part of the industry, then  
10 it would be the principle of C. T. A. that that regulation  
11 should be applied to the big part in the same way, so that  
12 it all would be regulated.

13 MR. MAGEE: Yes, we have always advocated  
14 regulation of the trucking industry, and our provincial  
15 associations have always advocated it in respect to  
16 intraprovincial carriers.

17 Q. Then, Mr. Magee, if you wanted to accomplish  
18 that, why did C. T. A. not recommend to this Commission  
19 the passing of a constitutional amendment to the British  
20 North America Act so as to place trucking under one  
21 control so that it could all be regulated by the legislation  
22 that you were proposing; why didn't you propose that?

23 MR. MAGEE: We just never considered it,  
24 Mr. Sinclair.

25 Q. That, then, could be put as another recom-  
26 mendation of the trucking associations?

27 MR. MAGEE: No, it certainly couldn't. I  
28 can't make a recommendation that hasn't been considered.

29 Q. Well, then, you wouldn't object if this  
30 Commission felt that this matter should be handled by  
a constitutional amendment to the British North America Act?





1  
2 MR. MAGEE: I think our long standing opposition  
3 to federal control of trucking under a board - under one  
4 central board, what might be called a centralization of  
5 control - would require me to answer in the negative,  
6 Mr. Sinclair.

7 COMMISSIONER GOBEIL: You mean your association  
8 doesn't agree with the interprovincial traffic being  
9 regulated by a provincial board?

10 MR. MAGEE: No. My answer, if I understood the  
11 question correctly, Mr. Commissioner, was that we wouldn't  
12 advocate an amendment to the British North America Act  
13 that would take the jurisdiction over intraprovincial  
14 trucking away from the provinces and put it under the  
15 federal government.

16 MR. SINCLAIR: Q. I can well understand the  
17 confusion that is brought about by your answer, because I  
18 put the question to you on the basis that intra and  
19 extraprovincial transport would be regulated in exactly  
20 the same way under this bill, and the way to do that,  
21 I suggest, would be move to have a statutory amendment,  
22 which would result in your then having the same joint  
23 boards and these provincial boards would be, as you have  
24 envisaged them, operating in concert and would deal with  
25 the regulatory problems, and it is from that that I am  
26 sure that Commissioner Gobeil put the question to you.  
27 Now, in the light of that, would you like to reconsider.

28 MR. MAGEE: We are not recommending a constitu-  
29 tional amendment that would remove from the provinces  
30 the jurisdiction that they have over purely intraprovincial  
trucking, Mr. Sinclair.







1  
2 Q. Notwithstanding learned counsel yesterday  
3 bringing to your attention that the province of Alberta  
4 up until now at least was unalterably opposed to the  
5 type of regulation that you were suggesting.

6 MR. MAGEE: Notwithstanding that fact, Mr.  
7 Sinclair, and the trucking industry in Alberta, I may say,  
8 does not agree with its government's views on that  
9 point.

10 Q. So that therefore there are different  
11 views as to what is in the public interest between the  
12 trucking association and the government of Alberta, for  
13 one?

14 MR. MAGEE: Certainly in regard to the regulation  
15 of intraprovincial trucking as revealed by Mr. Frawley's  
16 cross-examination yesterday; there is a difference of  
17 opinion.

18 Q. And as to the regulation of intraprovincial  
19 trucking?

20 MR. MAGEE: There is a difference of opinion  
21 there.

22 Q. And in Ontario where they don't regulate  
23 truck rates, what about that? Is it the view of the  
24 association that you represent that there should be  
25 rate control of trucking in Ontario?

26 MR. MAGEE: Well, I am here to speak for  
27 Canadian Trucking Associations, not the Automotive Trans-  
28 port Association of Ontario, but it is a fact that the  
29 Automotive Transport Association of Ontario for many  
30 years has advocated rate regulation for intraprovincial  
carriers in the province of Ontario.





1  
2 Q. And that hasn't been instituted by the  
3 government of that province?

4 MR. MAGEE: Not yet.

5 Q. Up until now. So there again there is  
6 a conflict of views as to what is in the public interest  
7 in regard to regulation.

8 MR. MAGEE: Maybe the Ontario government will  
9 come to believe that rate regulation is in the public  
10 interest.

11 Q. But up to now they haven't?

12 MR. MAGEE: Well, they haven't instituted it  
13 yet.

14 Q. Notwithstanding the fact that your organ-  
15 ization, parts of your organization have espoused and  
16 fostered this view, as you have said.

17 MR. MAGEE: Notwithstanding that fact.

18 Q. And the next point was this publishing and  
19 filing of tariffs, and the penalties for non-compliance.

20 MR. MAGEE: Yes.

21 Q. Now, Mr. Magee, the intention there, having  
22 in mind the public interest, is that under that type of  
23 legislation the same rate would be available to all  
24 shippers by highway, irrespective of which truck line  
25 he used; correct?

26 MR. MAGEE: Not necessarily, Mr. Sinclair.

27 Q. What would you envisage, then; that each  
28 truck line would file its own rates under this legislation,  
29 and that that is --

30 MR. MAGEE: Yes.

Q. ---in the public interest, so that if there







1  
2 were four truck lines, there could be four rates between  
3 two given points.

4 MR. MAGEE: If the Board decided that that  
5 was the appropriate rate level in that sort of zigzag  
6 fashion, that is the way it would exist.

7 Q. But that is the key to your suggestion that  
8 each trucker would file his individual rate.

9 MR. MAGEE: Yes.

10 Q. And then --

11 MR. MAGEE: If there was something wrong or  
12 unfair to the shippers, of course, the board is  
13 empowered under the Act to deal with that.

14 Q. Well then, I just want to get this clear;  
15 there could be a myriad of trucking rates operating  
16 between two points, there could be under your act?

17 MR. MAGEE: Yes, there could be. They are  
18 filed rates.

19 Q. And was it not one of the purposes of  
20 your legislation in the public interest to prevent "under  
21 the counter" deals so that rates would be known in the  
22 trucking industry?

23 MR. MAGEE: Yes, we are in favour of filing  
24 and publication of tariffs.

25 Q. And the purpose of that is in the public  
26 interests to prevent "under the counter" deals; that is  
27 so, isn't it?

28 MR. MAGEE: Yes, bring the rates out into the  
29 open.

30 Q. So that one shipper wouldn't have an  
advantage over another shipper, and so that shippers





1  
2 generally would know what position they were in with  
3 regard to transportation costs.

4 MR. MAGEE: That is right.

5 Q. So that one trucker could say, "I have  
6 two vehicles licensed to operate between Winnipeg and  
7 Toronto, and my rate to the Vulcan Iron Works is \$1.00  
8 a hundred"?

9 MR. MAGEE: Yes.

10 Q. "And I have picked up Vulcan Iron Works'  
11 traffic for Toronto every morning at 7 o'clock"?

12 MR. MAGEE: Yes.

13 Q. "And when the truck gets full, I will just  
14 keep on going, as I haven't got any more equipment."  
15 Would that be all right?

16 MR. MAGEE: I don't know whether that would  
17 be all right or not; I have no instructions on that  
18 point.

19 Q. Another truck line would charge \$1.10  
20 for anybody that wanted to bring their goods down to the  
21 Magee Terminal on Jarvis Street, that would be all right?

22 MR. MAGEE: On where?

23 Q. On any street you want to name. I am  
24 surprised that my friends recognize that.

25 MR. HUME: There is no such place as Jarvis  
26 Avenue; perhaps you mean Jarvis Street?

27 MR. SINCLAIR: Q. I have you in Winnipeg,  
28 not in Toronto. That would be all right as far as  
29 you are concerned, \$1.10 for that trucker operating  
30 out of the Magee Warehouse?

MR. MAGEE: I can't give you an answer to that







1  
2 question.

3 Q. But it would be possible under your legis-  
4 lation; that is obvious.

5 MR. MAGEE: Dependent on the members' approval  
6 of the rates.

7 Q. But there is no prior approval of rates  
8 here under your legislation, is there; there is a  
9 filing subject to complaint.

10 MR. MAGEE: That is right, Mr. Sinclair.

11 Q. And the point, Mr. Magee, would be that  
12 until the rate was complained about and this joint board  
13 set up, it would be a valid rate?

14 MR. MAGEE: Until it was complained of, yes.

15 Q. You would intend by your legislation  
16 to protect the public interest, to have immediate sus-  
17 pension of any rate which was complained about?

18 MR. MAGEE: That would be up to the Board,  
19 Mr. Sinclair.

20 Q. It would be open to them to bring about  
21 suspension proceedings?

22 MR. MAGEE: Yes.

23 Q. Mr. Magee, I don't know if you are confused,  
24 I hope not, but we will now go on to the next point,  
25 and that is that the extraprovincial trucker under your  
26 legislation could file his rate for the intraprovincial  
27 component on a different level in Manitoba than the  
28 provincial highway board fixes under their regulations,  
29 as they fix truck rates in that province; that is  
30 possible under your legislation?





1  
2 MR. MAGEE: Yes, it is possible, but that  
3 would be a matter where there would have to be some  
4 consultation and coordination, I think.

5 Q. Well, this, then, would be a situation  
6 where on a movement from Toronto to Winnipeg or  
7 Winnipeg to Toronto, this would be dealt with by the  
8 joint board where Ontario does not believe in fixing  
9 rates and Manitoba does, and where the trucker appearing  
10 before that joint board published a rate that was  
11 different than the prescribed rate?

12 MR. MAGEE: Yes.

13 Q. You have envisaged those possibilities?

14 MR. MAGEE: The joint board could authorize  
15 a rate different than the interprovincial rate, and I  
16 should state, in answer to a previous question, that  
17 the board could also of its own initiative deal with the  
18 rate and act upon it. It does not have to wait for a  
19 complaint.

20 Q. Where is that provided for?

21 MR. HUME: Section 13.

22 MR. SINCLAIR: Q. And so, this board that is  
23 not going to be permanently sitting would be operating  
24 individually in their various provinces, and Mr. Shoniker  
25 for one, and Mr. Bailey for another -- Mr. Shoniker  
26 could look at it and say -- he could initiate the calling  
27 together of a joint board?

28 MR. MAGEE: Yes.

29 Q. And they would have to do that?

30 MR. MAGEE: Yes.







1  
2 Q. They would have to call together a  
3 joint board?

4 MR. MAGEE: Yes, that is the way it is sug-  
5 gested.

6 Q. And that would be in the public interest?

7 MR. MAGEE: Yes.

8 Q. And the next point we discussed was this  
9 question of limitation of agreed charge proportion of  
10 traffic, and under your Act it is abundantly clear, I  
11 take it -- and this is in the public interest, and this  
12 is the way you protect public interest -- that 50 per  
13 cent of a shipper's traffic could be given to one trucker  
14 and 50 per cent could be given to another trucker?

15 MR. HUME: Just a minute: let me object by  
16 saying that is not what section 15 says. It is not  
17 that 50 per cent could be given; it is that no more than  
18 50 per cent could be bound to a particular carrier by  
19 a contract. The shipper might get 100 per cent.

20 MR. SINCLAIR: Q. Very well, I will put it  
21 this way: under your legislation a contract may be  
22 entered into by one trucker for 50 per cent of a ship-  
23 per's traffic between two points?

24 MR. MAGEE: Yes.

25 Q. And another trucker could enter into a  
26 contract for the other 50 per cent?

27 MR. MAGEE: Yes.

28 Q. So that, therefore, 100 per cent of a  
29 shipper's traffic could, by contract under agreed charges,  
30 be committed to highway movement; correct?





1  
2 MR. MAGEE: Yes, it could be done that way.

3 I don't think it would happen that way. I think if the  
4 rates were set at a certain level and the shipper was  
5 so satisfied with the rates that he got from the one  
6 trucker, he would send all of his traffic by that  
7 trucking firm. He could only be tied to a maximum of  
8 50 per cent of the traffic, for it would not be practi-  
9 cal for him to go and get another trucker. He would send  
10 it all by that trucker, I would think.

11 Q. Well, I am surprised at you, Mr. Magee;  
12 maybe you are not aware of the resourcefulness of the  
13 shippers. Under your legislation this would be the  
14 position: the shipper arranges a contract for 50 per cent  
15 of his traffic at \$1 a hundred with one trucker?

16 MR. MAGEE: Yes.

17 Q. And 50 per cent of his traffic with another  
18 trucker for 99 cents, and the truckers pool the revenue  
19 and they are thereby getting 100 per cent of the traffic  
20 for 99½ cents a hundred: that would be all right --  
21 nothing to prevent that?

22 MR. MAGEE: The truckers would have to obey  
23 the law as set out in the Act.

24 Q. Under your Act there would be nothing  
25 to prevent what I have put to you?

26 MR. MAGEE: The truckers would not be able  
27 to do anything that violated the provisions of this  
28 legislation.

29 Q. Of course not, and that is why I am saying  
30 to you that the proposition I have put to you could be







1 covered under this statute that you propose?

2 MR. MAGEE: The pooling of the revenues?

3 Q. Certainly.

4 MR. MAGEE: I think I would like to think  
5 about that one too.

6 COMMISSIONER ANSCOMB: I take it under those  
7 circumstances where the C.P.R. and the C.N.R. were running  
8 parallel, they could do the same thing?

9 MR. SINCLAIR: No, because he has very dif-  
10 ferent rules when he comes over to the limitation on the  
11 railways, which I will discuss with him later. Under  
12 the proposition I have just put to the witness, his  
13 nice little scheme for being fair and in the public  
14 interest has resulted in 100 per cent of the traffic  
15 moving under contract by highway, and the similar type  
16 of scheme between the railways is precluded by the legis-  
17 lation, where he has amended it, under agreed charges  
18 for the railways, and I will have something to say about  
19 that later.

20 Q. The next point we were discussing was that  
21 the competitive rates to be filed by the truckers would  
22 be without any obligation that such rates be compen-  
23 satory, and you were going to look upon this as a direct  
24 cost, and something over direct cost. Earlier in your  
25 evidence you pointed out that on backhaul rates truckers  
26 could fix a rate that covered, as you said, wages, gas,  
27 and oil.

28 MR. MAGEE: Yes.

29 Q. And that is done by the trucking industry?  
30





1  
2 MAGEE: Yes, that is done by some trucking  
3 firms.

4 Q. Indeed, it goes further than this: they  
5 make rates not on wages, gas and oil, but they make  
6 rates, do they not, on the extra gas and oil that is  
7 required for hauling a load, because a truck has to  
8 come back empty, and it is only the extra gas and oil  
9 that they fix the rate on: you have heard of that?

10 MR. MAGEE: I don't know about the divisions  
11 of gas and oil.

12 Q. You know it takes gas and oil to run a  
13 truck empty?

14 MR. MAGEE: Yes.

15 Q. And it takes a little more gas and oil  
16 to run a truck when it is full?

17 MR. MAGEE: I understand that.

18 Q. And if the truck is going back empty they  
19 don't pay the driver any more because he is pulling a  
20 full load?

21 MR. MAGEE: I understand that.

22 Q. So, the only extra cost is for gas and oil  
23 for bringing the truck back full as against it being  
24 empty?

25 MR. MAGEE: I don't want to go too deeply into  
26 the question of how truckers make rates, because I am not  
27 qualified to speak on it.

28 Q. I want to discuss with you what is in the  
29 public interest and arising from the legislation you are  
30 proposing to this Commission?







1  
2 MR. MAGEE: I will do my best to assist you  
3 within the limits of my knowledge.

4 Q. Accepting from me this information whereby  
5 the truck would be going back empty, that it would be  
6 profitable for the trucker to make a rate for anything  
7 over the extra cost arising out of the extra gas and  
8 oil for pulling the load, would that be a compensatory  
9 rate as a competitive rate under this legislation which  
10 you propose, and would you so argue, and if you don't  
11 want to answer that question before you consult with Mr.  
12 Montague, that will be all right.

13 MR. MAGEE: I may not be able to answer it at  
14 all.

15 Q. Well, will you try discussing it?

16 MR. MAGEE: Yes, I have told you I will do  
17 that.

18 MR. SINCLAIR: I hope Mr. Hume is making a  
19 note of these things so they can be brought up after  
20 lunch.

21 MR. HUME: No, I will read them in the tran-  
22 script. The questions are long and involved, and Mr.  
23 Magee has said he does not know anything about rates,  
24 and I don't see anything profitable in pursuing that --  
25 as to how the trucker makes a rate.

26 MR. SINCLAIR: This Commission decided they  
27 wanted to get into trucking, and we are into trucking  
28 here, and here is the daddy of them all, right in the  
29 witness stand; here is No. 1 spokesman for the trucking  
30 industry.

MR. MAGEE: No, I am not No. 1 spokesman; I





1  
2 am a spokesman.

3 MR. SINCLAIR: Chosen as being the best man  
4 to present to this Commission the views of the Canadian  
5 trucking industry.

6 MR. HUME: And who has never operated a truck  
7 line or made a rate in his life, and does not know any-  
8 thing about it.

9 THE CHAIRMAN: He is doing a very fair job.

10 MR. SINCLAIR: He certainly is, Mr. Chairman,  
11 and he is to be complimented, and I am sure all counsel  
12 recognize how excellent a witness Mr. Magee is, and I  
13 say that most sincerely, and if his counsel wasn't so  
14 anxious, I think he would be better.

15 THE CHAIRMAN: Well, that is the privilege of  
16 counsel.

17 MR. SINCLAIR: It is, and he is certainly  
18 exercising it.

19 THE CHAIRMAN: And the thinking of counsel.

20 MR. SINCLAIR: Well, that may be a duty under  
21 certain circumstances, yes.

22 Q. Now, Mr. Magee, this next thing we  
23 were discussing, and this is, how is it in the public  
24 interest to prohibit shippers' associations or forwarders  
25 from moving their goods over the highway if -- and you  
26 have not answered this yet, because you wanted to look  
27 into it -- if, by doing that, they can handle the goods  
28 more economically than any other way: would that be in  
29 the public interest?

30 MR. MAGEE: So far as the shipper is concerned,







1  
2 Mr. Sinclair, if he wants to handle his own goods and  
3 his own equipment, we have never opposed that and never  
4 asked for regulation on it.

5 Q. But you are opposing a forwarder moving  
6 goods as a forwarder, and you may be opposing the Kum  
7 Winnipeg from moving goods to which it has title?

8 MR. MAGEE: We say the forwarders should be  
9 licensed. If they can prove public necessity and con-  
10 venience, then they are in the trucking business.

11 Q. They are handling their own goods: I am  
12 going to make them handle their own goods to which they  
13 are going to take title.

14 MR. MAGEE: Forwarders?

15 Q. Yes, I am going to set up an arrangement  
16 where forwarders take title: this is a situation in the  
17 public interest, it would result in lower cost for the  
18 movement of goods -- assume with me that it does.

19 MR. MAGEE: I don't want to deal with ---

20 Q. Isn't this a place, Mr. Magee, where the  
21 truckers' interest has transcended the public interest  
22 in regard to the purpose of this bill -- as I will argue  
23 in a number of other places -- but here is one that is  
24 clear?

25 MR. MAGEE: I wonder if we could have the  
26 whole question again. It is my fault; I am getting a  
27 little tired.

28 Q. Mr. Magee, the purpose of your legislation  
29 was to make it impossible for a group of people or a  
30 company to acquire title to goods and then move those





1  
2 goods over the highway; you wanted to make it clear that  
3 would not be allowed unless they got a PCV licence?

4 MR. HUME: I suggest that was not the purpose  
5 of the legislation. Section 9 does not include the  
6 Kum Winnipeg Company moving its own goods, because it  
7 would not be moving for hire.

8 MR. SINCLAIR: Well, that is fine. We take  
9 it, then ---

10 MR. HUME: If they are moving their own goods,  
11 there is no question there.

12 MR. SINCLAIR: That would include the Kum  
13 Winnipeg outfit I set up this morning and the O-Kum-In  
14 forwarder I am setting up now. Is that the statement of  
15 counsel?

16 MR. HUME: I say it is my view of the inter-  
17 pretation of this section that if they are moving their  
18 own goods they are not operating extra-provincial trans-  
19 port for hire, and the Act does not apply.

20 MR. SINCLAIR: Would counsel also assist  
21 by saying whether that answer would govern where a  
22 title to the goods was placed in the Kum Winnipeg  
23 transport company or the O-Kum-In transport company  
24 for the purposes of forwarding the goods?

25 MR. HUME: I would say that if the title  
26 was placed in the name of the Kum Winnipeg company for  
27 the purpose of transporting the goods -- and while it may  
28 be a way around this Act -- it is my view, if they are  
29 moving their own goods and not for hire, this Act would  
30 not apply, but if they were doing it in such a way







1 that the title is a subterfuge, then it would apply.

2 THE CHAIRMAN: It has to do with the bona  
3 fides.

4 MR. HUME: My friend no doubt is aware this  
5 same kind of legislation appears in the Ontario Act with  
6 respect to intra-provincial transport, and there have  
7 been many cases where people purporting to take title  
8 to their own goods to avoid the necessity of taking out  
9 a licence and insurance, and it has been found that  
10 they are contravening the Act.

11 MR. SINCLAIR: Mr. Magee, in the light of the  
12 statement of your counsel Mr. Hume, if the court held  
13 that under the circumstances, because of the difficulties  
14 of draftsmanship and possibly not having set the matter  
15 up quite rightly, that the Kum Winnipeg did not really  
16 own the goods, but it was demonstrated by entering into  
17 an arrangement they did that the cost of transportation  
18 was lessened, would you suggest then, to make certain  
19 of the public interest and the lowest transportation  
20 cost possible, that the legislation make clear that  
21 Section 9 does not apply to forwarders or shippers'  
22 associations by writing that right in? Because you  
23 can see that Mr. Hume and I may have difficulties.  
24 So, to sweep them away we will say, notwithstanding  
25 anything in section 9 hereto, it will not apply to  
26 forwarders or shippers' associations? Would the  
27 Canadian Trucking Associations accept that?

28 MR. MAGEE: Well, I am afraid we are getting  
29 into some very involved questions on regulation that  
30





1  
2 perhaps you feel I should be able to answer, and I just  
3 don't know the answer.

4 Q. Will you give some consideration to them?

5 MR. MAGEE: Yes.

6 Q. So that we don't have to get into any  
7 legal problems, would you say whether in the public  
8 interest, if it can be shown that the costs of moving  
9 goods are more convenient or cheaper through forwarders'  
10 associations and shippers' associations, that that  
11 specifically be set out in your legislation?

12 MR. HUME: This is the same thing as saying  
13 if it can be shown that an unlicensed and unregulated  
14 carrier can move goods cheaper than a licensed one, it  
15 is in the public interest to let them run any way  
16 they want. Is that the effect of your submission?

17 MR. SINCLAIR: I don't know what the effect  
18 of my submission is. I have put a question to the wit-  
19 ness: I have asked him whether he would support the  
20 view that in the public interest they would exclude  
21 from section 9 of their proposed bill shippers' associa-  
22 tions and forwarders. If he doesn't want to take  
23 them both, obviously, he can take one.

24 THE CHAIRMAN: Based on cost?

25 MR. SINCLAIR: Cost and convenience.

26 MR. MAGEE: Well, we are going to take a look  
27 at that, Mr. Sinclair.

28 MR. SINCLAIR: Q. Thank you. Now, Mr. Magee,  
29 as you know, certain provincial jurisdictions license  
30 forwarders; for instance, the province of Quebec?







1  
2 MR. MAGEE: Yes.

3 Q. No one can operate a legal cartage  
4 service in connection with forwarders' business in the  
5 province of Quebec without getting a licence from the  
6 provincial Transport Board. Do you not think that  
7 your clause 9 -- and your clause 9 with the addenda  
8 that I have suggested and that you are going to look at  
9 -- would raise constitutional issues as to legislative  
10 jurisdiction over forwarders and bring about difficul-  
11 ties between the federal and provincial authorities as  
12 to jurisdiction?  
13  
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1  
2 MR. MAGEE: Well, we are really on a question  
3 that I am not qualified to express an opinion on.

4 THE CHAIRMAN: You are not a lawyer.

5 MR. MAGEE: No, I am not a lawyer.

6 MR. SINCLAIR: Q. Has that ever been discussed?

7 MR. HUME: Yes, Mr. Chairman, it has been  
8 discussed, and I told my learned friend privately we  
9 would be very delighted to discuss this with him.

10 MR. SINCLAIR: I take it that counsel's  
11 answer is that there is an arguable position that for-  
12 warders are providing an extraprovincial undertaking  
13 and, because of that, provincial jurisdiction which would  
14 otherwise obtain would be ousted. I am going to argue  
15 that under the terms of the law, if a forwarder is, in  
16 fact, engaged in an extraprovincial undertaking, he is  
17 under the jurisdiction of parliament if they decide to  
18 legislate on that.

19 THE CHAIRMAN: Well, we will hear that in  
20 due course.

21 MR. SINCLAIR: I suggest that if my friend is  
22 going to argue that it is extraprovincial under 10 (a)  
23 it is an exclusive field, and therefore he has to argue  
24 that the Quebec legislation is ultra vires.

25 Q. In view of all the problems to the  
26 trucking industry that arise from jurisdiction being  
27 divided under our constitution, anything that can assist  
28 the trucking industry to deal with that problem is a  
29 matter that your association is supporting and espousing.

30 MR. MAGEE: That is correct, Mr. Sinclair.

Q. And it is that problem that you are mainly







1  
2 concerned with in your associations?

3 MR. MAGEE: It is one of the problems.

4 Q. That is the problem that you are mainly  
5 concerned with in your associations, that is the  
6 Canadian Trucking Associations.

7 MR. MAGEE: Truck control?

8 Q. Truck control arising from divided juris-  
9 dictions.

10 MR. MAGEE: Yes, that is one of the problems  
11 we are mainly concerned about, Mr. Sinclair.

12 Q. You don't say it is the main problem you  
13 are concerned with.

14 MR. MAGEE: Well, agreed charges are pretty  
15 important, rail entry.

16 Q. And you are looking after those things  
17 by the bill you propose here to this Commission?

18 MR. MAGEE: The bill on truck control?

19 Q. Yes.

20 MR. MAGEE: Yes, those represent our proposals  
21 for dealing with the problem, Mr. Sinclair.

22 Q. And you put those forward on the basis  
23 that they are the problems with the trucking industry,  
24 the ones you are concerned with, and if there is con-  
25 flict between the public interest and the trucking  
26 interest, subjectively you are going to decide which  
27 governs.

28 MR. MAGEE: Well, now, how could we be  
29 completely objective about that, Mr. Sinclair. That  
30 is what this Commission is here to decide.

Q. In your proposals you are.





1  
2 MR. MAGEE: We try to be, just like the  
3 -- oh, subjective! We try to relate the public interest  
4 and the interest of the trucking industry in a proper  
5 way, Mr. Sinclair. Being the trucking industry, we  
6 may not always succeed in that.

7 Q. No, I accept that answer and I think I  
8 understand completely, and I am sure the Commission  
9 does, too.

10 MR. MAGEE: All organizations have that problem,  
11 I think, Mr. Sinclair, even other transportation agencies,  
12 and I am sure they try as hard as we do to overcome them.

13 Q. There is one point I have in mind I would  
14 like to clear up. Under your section 20 (1), how would  
15 you, under that type of legislation, protect the  
16 certificate, the operating certificate, if the certificate  
17 was annual, or doesn't this very skilfully place you  
18 in the position of arguing that for all trucking controlled  
19 by railways after one year it is open season? Had you  
20 thought about that?

21 MR. MAGEE: I have already answered that  
22 question earlier, Mr. Sinclair. I was asked by the  
23 Commission counsel if we proposed that any rights given  
24 to the railways in regard to operating trucks or any  
25 companies purchased would be disturbed even if our policy  
26 on rail entry was accepted, and I said that all of  
27 the existing operating rights would remain as they are.

28 Q. Then it may be that section 20 (1)  
29 wouldn't accomplish that if the certificates were annual,  
30 if they are open to annual review.

MR. HUME: Is it annual renewal or review?







1  
2 MR. SINCLAIR: I am coming to renewal. I  
3 am now dealing with annual review.

4 MR. HUME: I am not aware that any province  
5 now reviews annually all licences. Now, I may be mistaken.

6 MR. SINCLAIR: These provincial boards have  
7 power to have annual reviews, and they can pass regulations,  
8 and, as I understand it, anything that is not covered  
9 under this bill that would deal with the matter of  
10 regulatory control, they would deal with it under those  
powers in their board.

11 MR. MAGEE: I think all boards have the right  
12 to look at licences, but I cannot conceive of a board  
13 going back and turning the clock back after a certain  
14 point unless the operator has been a consistent violator  
15 of the law or committed some misdemeanor that made the  
board decide he was not a desirable operator.

16 Q. What about the renewal of annual certificates?  
17 Does that allow anybody to object on the renewal and,  
18 if so, under the principles under the proposals you  
19 have outlined.

20 MR. MAGEE: Well, it is certainly not the  
21 intention of Canadian Trucking Associations to suggest  
22 any review of licences given to the railways for truck  
23 lines in an attempt to cut them back from what they have  
at the present time.

24 Q. But you are introducing legislation.  
25 There are a myriad of interests that have to be thought  
26 of, not only now in the trucking industry but those who  
27 will come into the trucking industry.

28 MR. HUME: The right to renewal is not in the  
29  
30





1  
2 legislation. The act doesn't give the provincial  
3 board the right to renew or the federal act under the  
4 present act.

5 MR. SINCLAIR: If you don't know how to get  
6 round that, Mr. Hume, I will not tell you. This is a  
7 very different question I put to the witness. The  
8 question I put to the witness was: There are many  
9 interests involved in highway transportation who should  
10 be taken into consideration before there is legislative  
11 enactment that affects their business.

12 MR. MAGEE: Yes.

13 Q. And you don't represent them all?

14 MR. MAGEE: No.

15 Q. And there is great difficulty in dealing  
16 with this matter without having all these various  
17 interests properly looked into and properly weighed?

18 MR. MAGEE: Well, that is one of the things  
19 that the Commission would, if they consider our act,  
20 have to do. We speak for the for-hire trucking  
21 industry.

22 THE CHAIRMAN: We will adjourn until 2 o'clock.

23 ---Luncheon adjournment.  
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2 ---On resuming at 2 p.m.

3 THE CHAIRMAN: Order, please.

4 MR. SINCLAIR: Q. Now, Mr. Magee, this  
5 joint board that is to be made up of appointees from  
6 a provincial and regulatory commission.

7 MR. MAGEE: Yes.

8 Q. I am not very good at arithmetic, so maybe  
9 you can help me.

10 MR. MAGEE: I am very bad at it, Mr. Sinclair.

11 Q. You have an advisor who is excellent  
12 at it.

13 MR. MAGEE: That is why we have him there.

14 Q. Maybe he has note of this and can assist  
15 the Commission. This proposed bill will be effective in  
16 nine provinces.

17 MR. HUME: Ten.

18 MR. SINCLAIR: I don't know how you have  
19 extraprovincial highway movements between Newfoundland  
20 and the mainland of Canada; that is why I made it nine.

21 COMMISSIONER MANN: There is the matter of  
22 the vehicle being 32 feet long.

23 MR. SINCLAIR: It is not by highway.

24 COMMISSIONER MANN: On extraprovincial movements?

25 MR. SINCLAIR: This bill only applies to motor  
26 vehicles operating by highway.

27 MR. MAGEE: That is fishyback.

28 MR. SINCLAIR: That is not by highway.

29 MR. MAGEE: Fishyback.

30 MR. SINCLAIR: Am I to take it it is the view





1  
2 of the Commission and the view of the Canadian Trucking  
3 Associations that this bill affects piggyback?

4 MR. MAGEE: My comment was "fishyback" with  
5 regard to the "William Carson".

6 MR. SINCLAIR: Q. This bill didn't operate  
7 except where there were movements by highway involved,  
8 only movement by highway?

9 MR. MAGEE: That is right.

10 Q. And so therefore we are right at nine  
11 provinces.

12 MR. HUME: I am sorry, but the definition  
13 section of this bill provides what is sought to be  
14 defined as an extraprovincial transport is the transport  
15 of goods over the highway by an undertaking extending  
16 beyond the limits, and in Prince Edward Island the  
17 vehicle moves by highway in Prince Edward Island, but to  
18 take the undertaking beyond the limits of the province,  
19 it is an interprovincial movement and some of it goes  
20 by ferry, but it at least goes beyond the limits of the  
21 province.

22 MR. SINCLAIR: The definition section,  
23 Mr. Chairman and members of the Commission, is extra-  
24 provincial transport, and that means the transport of  
25 passengers and goods by commercial vehicle over the  
26 highway. If it didn't in its movement go over the  
27 highway, it would be my suggestion that the bill, then,  
28 didn't apply by definition. If that is not what is  
29 intended, the bill obviously requires an amendment in  
30 that regard.

COMMISSIONER ANSCOMB: Does it, under your  
interpretation, divide British Columbia up into two







1  
2 pieces?

3 MR. SINCLAIR: I can't get to Vancouver Island  
4 over the highway.

5 MR. HUME: As long as it goes on the highway  
6 it is extraprovincial.

7 THE CHAIRMAN: If the act were no good there  
8 should be an amendment, that is all.

9 MR. SINCLAIR: Q. Let me ask you one question  
10 on the principle. Would this bill, as you have intended  
11 it to be operative, apply in any of these particulars  
12 to piggybacking, and if so, what particular and what  
13 section?

14 MR. MAGEE: We dealt with piggybacking in a  
15 separate section.

16 Q. I know you did, but I am dealing with this  
17 bill first, and that is the way I am proceeding. I want  
18 to know was it intended that this highway transport act  
19 would deal with piggybacking, and if so, in what regard  
20 and what section?

21 MR. MAGEE: I don't think there is anything  
22 in the act that has to do with the principles of piggy-  
23 back regulations as we outlined them, and perhaps it is  
24 in too vague a way in our piggyback section, Mr. Sinclair.

25 Q. It is not the intention of the Canadian  
26 Trucking Associations to in any way preclude any persons,  
27 private, for hire, shipper association, forwarder or  
28 any other person or persons from making full use of the  
29 piggybacking by this bill, was it?

30 MR. MAGEE: By this particular bill?

Q. That is right.





1  
2 MR. MAGEE: No.

3 Q. And if by misadventure or fortuity the  
4 bill could so be interpreted, that would be something  
5 that you would want eliminated?

6 MR. MAGEE: That is something we would want to  
7 eliminate.

8 Q. Eliminate from the bill?

9 MR. MAGEE: If piggyback was not in.

10 Q. If by misadventure or fortuity of language,  
11 or anything else, piggybacking was affected by this bill,  
12 you would want that eliminated. In other words, if it  
13 does something you didn't want it to do you would want it  
14 changed to carry out your intentions?

15 MR. MAGEE: If the bill by misadventure did  
16 something about the movement of piggyback that we didn't  
17 want it to do, we would, of course, want to amend that.

18 I think I should say now that as a result of  
19 the questions that were asked this morning, that we are  
20 taking another look at our 50 per cent limitation in the  
21 bill, and we may have an amendment to propose to that  
22 section of the draft highway transport act.

23 Q. I see. That is one thing. You are  
24 taking a look at other things, I presume, out of the  
25 questions, so we will not limit you to that.

26 Let us get back to one thing. If this bill  
27 in any way affects the complete freedom of piggybacking,  
28 that is not something that you want to have in this legis-  
29 lation because that is not what it is intended for?

30 MR. MAGEE: I can't say that for sure,  
Mr. Sinclair, for this reason; that in the piggyback







1  
2 section of our brief, section 8 --

3 Q. I am going to discuss that section with  
4 you in detail.

5 MR. MAGEE: But I want to answer your question  
6 first, Mr. Sinclair. In the piggyback section of our  
7 brief we deal on page 8.7 with a statement of general  
8 principles on which the control of piggyback should be  
9 based.

10 Q. Yes.

11 MR. MAGEE: And that takes in paragraph 21  
12 on page 8.7, and the only paragraph which appears on  
13 8.8.

14 Q. And was it your intention, the intention  
15 of the Canadian Trucking Associations --

16 MR. MAGEE: I am not quite through with my  
17 answer, sir.

18 Q. I am sorry.

19 MR. MAGEE: I left too long a pause between  
20 the previous sentence. It says on page 8.8:

21 "Any regulations or measures of control adopted  
22 should be evolved" --

23 that is in regard to piggyback --

24 "and administered by an agency, or agencies, fully  
25 conversant with the interests and problems of  
26 both transportation industries."  
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2 Q. That, of course, knocks your bill out  
3 immediately, because the provincial regulatory boards  
4 would not qualify under being fully conversant with the  
5 interests and problems of the railway transportation  
6 industry, would they?

7 MR. MAGEE: Well, that is your view.

8 Q. Wouldn't you agree with it?

9 MR. HUME: He does not agree, as he said, and  
10 I don't agree that it knocks the bill out. You start  
11 your sentence with a premise which, in my view, is not  
12 correct. There is nothing in this act that is attempting  
13 to regulate -- Mr. Magee has said piggybacking. If a  
14 highway carrier happens to use piggybacking, that portion  
15 of his movements, under the jurisdiction of the parliament  
16 of Canada, would be under this bill, and when he got on  
17 the railways, he would be under the Railway Act.

18 MR. SINCLAIR: I am obliged to Mr. Hume for  
19 the clarity of his answer, and I will now ask the witness,  
20 who is dealing with the policy of the association, to  
21 recall his answer that it was not the intention of the  
22 association to deal with piggybacking in this bill.

23 Q. Do you want to change that -- it was  
24 not your intention to deal with piggybacking in this bill?

25 MR. MAGEE: It may not be included in the bill,  
26 but we have made recommendations in regard to principles  
27 of control for piggybacking in section 8, page 8.8, which  
28 might lead the Commission to make some recommendations  
29 in regard to piggyback in the draft highway transport  
30 act, or some similar legislation. I don't know whether  
it would or would not.







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Q. In this draft highway transport act, would you please, for my assistance, draw to the attention of the Commission -- and for the Commission's assistance -- those sections which in your view have anything to do with piggyback?

MR. MAGEE: There is nothing there in the actual wording of the act.

Q. And you don't intend there to be?

MR. MAGEE: Well, we have to relate the section on truck control, perhaps, in some way to the section on piggyback which, as I said, when we came to the principles of regulation which we suggested there, stated on page 8.8,

"Any regulations ---"

Q. You read that before, and it is before the Commission, and my question is simply this: You say that there is no part of the language of the bill that refers to piggyback?

MR. MAGEE: Yes, I gave that answer, too.

Q. And I went further and asked you that Canadian Trucking Associations did not intend to have this bill operated in regard to piggyback, and it is just that simple question to see whether you agree with it or not.

MR. MAGEE: Well, it comes down to the relationship between these two sections, and it is a legal question, and I would like to consult our counsel.

MR. SINCLAIR: Certainly.

COMMISSIONER GOBEIL: In the meantime, Mr. Sinclair, could you enlighten me, doesn't it mean what





1  
2 is written down?

3 MR. SINCLAIR: This bill has a lot of impli-  
4 cations in it, Mr. Commissioner. For one thing it,  
5 in my opinion, is open to some interpretations, and in  
6 view of what learned counsel for the Trucking Associations  
7 said this morning, it will be open to the interpretation  
8 that, for instance, if, as he said he would argue, a  
9 forwarder had an interprovincial undertaking, then the  
10 legal cartage of an interprovincial undertaking is under  
11 federal jurisdiction, and that is one thing, and then  
12 I suppose it would be then open for him to argue that  
13 an interprovincial undertaking could be carried on by  
14 way of piggybacking, and that in that regard he would  
15 try to argue that constitutionally it could possibly be  
16 brought within some of the sections of this bill. The  
17 ramifications of this constitutional aspect of divided  
18 jurisdiction -- and there is an interprovincizl undertaking  
19 -- and this bill's limitations are things that go quite  
20 a way.

21 THE CHAIRMAN: Well, Mr. Sinclair, there are  
22 very few bills -- if this had become law, certainly there  
23 would be considerable litigation in interpreting it.

24 MR. SINCLAIR: In this one?

25 THE CHAIRMAN: Any one.

26 MR. SINCLAIR: Well, not any one.

27 THE CHAIRMAN: Even the Railway Act.

28 MR. SINCLAIR: Well, the Railway Act, of  
29 course, has had a relatively small amount of litigation  
30 dealing with its interpretation, but there has been much  
litigation concerning its application.







1  
2 THE CHAIRMAN: Yes.

3 MR. SINCLAIR: But this one, in my respectful  
4 submission to the Commission, does raise very, very  
5 litigious questions as to interpretation, and I don't  
6 think this comes from lack of draftsmanship. There may  
7 be some of those, but it comes from conceptual factors  
8 in this bill as it is proposed.

9 MR. HUME: May I make this observation, that  
10 my friend is aware that the Motor Vehicle Transport Act  
11 is the law of Canada today, and the same constitutional  
12 questions with respect to the application of the inter-  
13 pretation section -- it is equally easy to argue that  
14 when the parliament of Canada used the word "extra-  
15 provincial transport" and defined it as being an extra-  
16 provincial undertaking, as an undertaking for the  
17 transport of goods by motor vehicle connecting all  
18 provinces, and the forwarders are included today. So,  
19 it is a problem, and I don't think this witness, not  
20 being a lawyer, can answer those things. I am suggesting,  
21 if my friend has a legal question, and he will put it  
22 on the record, I will try to deal with it in argument.

23 MR. SINCLAIR: I am not putting legal questions,  
24 but I am obliged to my friend for the clarity with which  
25 he points up the question. He has shown that in this  
26 bill they have changed the definition: It was "trans-  
27 portation by motor vehicle", and now he has got "by  
28 motor vehicle over the highway". That is quite a different  
29 thing, and what I am pointing out to the Commission is  
30 that this is a bill the ramifications of which go a very  
long way, and I want to see how far Canadian Trucking





1  
2 Associations intended it to go. It is clear that there  
3 is no parts in it, in view of the answers, that, in their  
4 view, affect piggyback, and the question I was putting to  
5 the witness was that they did not intend it to impinge  
6 upon piggybacking, and that, surely, is a pretty proper  
7 question to put to the policymaker of the Canadian  
8 Trucking Associations, and an easy one to answer.

9 MR. MAGEE: To put to the policymakers of  
10 Canadian Trucking Associations?

11 MR. SINCLAIR: Q. Their spokesman. That is  
12 what you are here as?

13 MR. MAGEE: I thought you said, "to put to  
14 the policymaker of Canadian Trucking Associations".

15 Q. No, the spokesman.

16 MR. MAGEE: For the policymakers?

17 Q. Yes.

18 MR. HUME: Well, you determine the intention  
19 of parliament by taking the act they pass and attempting  
20 to interpret it. Perhaps we could do that -- they have  
21 policymakers of this association -- and argue at some  
22 later date what the effect of the act is?

23 MR. SINCLAIR: With all due respect for my  
24 learned friend Mr. Hume, and I have some respect for the  
25 Canadian Trucking Associations, but they are very different  
26 from parliament, and once parliament has passed a bill  
27 it is one thing; it is another thing to propose a bill  
28 and ask it to be recommended.

29 THE CHAIRMAN: Well, as I understand from the  
30 witness, the bill as drawn does not cover piggyback.  
In view of the policy of the association, it may be







1  
2 defective in that regard.

3 MR. MAGEE: That could be, Mr. Chairman.

4 THE CHAIRMAN: Pardon?

5 MR. MAGEE: Yes.

6 THE CHAIRMAN: But it still does not cover it?

7 MR. MAGEE: No.

8 THE CHAIRMAN: And would not?

9 MR. MAGEE: The preparation of our piggyback  
10 section of our submission of necessity, because of our  
11 staff resources and so on, was not done at the same time  
12 as the draft highway transport act, and it may be,  
13 possibly, that the Commission in considering the views  
14 that we stated on piggyback might say that if these  
15 regulatory principles in regard to piggyback that we  
16 have stated in section 8, page 8.7 and page 8.8, were  
17 acceptable, perhaps the Commission might say they should  
18 be embodied in truck control legislation rather than in  
19 some other federal jurisdiction legislation.

20 THE CHAIRMAN: You are asking the Commission  
21 to reconcile the act with the bill you have submitted?

22 MR. MAGEE: That is right, Mr. Chairman.

23 MR. SINCLAIR: Q. Very well, let us get back  
24 to the question I put, and I will ask you the questions  
25 when I come to the piggyback section, in the light of  
26 your answer to the Chairman. This all started by my  
27 suggesting this bill applied to nine provinces. You want  
28 to make it ten; is that right?

29 MR. MAGEE: We certainly do. We don't want  
30 to leave any province out.

Q. So, you think you can move goods by





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commercial vehicle over the highway throughout the whole  
ten provinces of Canada, and that is why you made that  
answer?

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2 MR. MAGEE: We may have anticipated causeways  
3 too far in advance, Mr. Sinclair.

4 Q. Now, that is an interesting answer, Mr. Magee.  
5 Would the truckers be prepared to carry their due pro-  
6 portion of the cost of the building and the maintenance  
7 of the causeway to join Newfoundland with the rest of  
8 Canada? Presumably the answer to that is yes.

9 MR. MAGEE: Well, Mr. Sinclair, we believe  
10 that the truckers should pay their fair share of highway  
11 costs, and we think they are doing so.

12 Q. I will be asking you about that little  
13 bit you put in there later, too. So mark it down,  
14 Mr. Burbidge, too. He thinks they are paying their  
15 fair share of highway costs.

16 MR. MAGEE: We have marked it down, too, -  
17 Mr. Sinclair.

18 Q. On the anticipation of a causeway joining  
19 Newfoundland with the rest of Canada, and the little  
20 job I want you to assist the Commission on, if you will,  
21 on this joint board - if a trucker was going to operate  
22 from Newfoundland over the causeway across Canada to  
23 Vancouver, going through all the ten provinces of  
24 Canada, would you please tell me now, in the light of  
25 you saying it is in the public interest to have consistency,  
26 what are the mathematical permutations and computations  
27 of the number of changes that could take place in that  
28 Board? I will tell you that this question isn't easy.  
29 It sounds a little easier than it is. So would you  
30 refer it to Mr. Montague so that he won't lose time.  
Tell him he has a problem in merging and melding the





1  
2 computations and permutations, and he could give us an  
3 answer right after the adjournment.

4 MR. MONTAGUE: I have the request. We would  
5 have to have some time to consider this.

6 MR. MAGEE: I don't have any false sense of  
7 security about the answer to your question, Mr. Sinclair,  
8 I can assure you.

9 Q. Now, here is one that is easy, Mr. Magee.  
10 I suggest to you that the public interest -- that is all  
11 we are dealing with here -- would be better served if  
12 this highway transport act was simplified so that it  
13 provided only for the publishing and filing of rates and  
14 the imposition of penalties on purely extraprovincial  
15 movements of freight by highway.

16 MR. MAGEE: Well, Mr. Sinclair, as you know,  
17 I appear here as an industry witness, and I am bound by  
18 the submission --

19 Q. You couldn't agree with me it would  
20 simplify it?

21 MR. MAGEE: No, I wouldn't want to make any  
22 comment on that.

23 Q. All right, I accept the answer.

24 MR. HUME: Just let me clarify. You mean if  
25 you had an undertaking that was connecting a province,  
26 that the only portion of the publication you are suggesting  
27 in the simplified act would deal with that portion of  
28 traffic that makes a continuous movement, that crosses  
29 a border, or interprovincial movement in that?

30 MR. SINCLAIR: I said that the bill would be  
simplified if it dealt with publication of tariff and  
regulation of rates for extraprovincial freight movements.







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2 MR. HUME: Is a movement that starts in Sarnia  
3 and moves, say, to Woodstock and goes from there to  
4 Montreal - is the Sarnia-Woodstock movement an inter-  
5 provincial movement?

6 MR. SINCLAIR: On a bill of lading where the  
7 contract was to carry it from Sarnia to Montreal, my  
8 answer would be yes.

9 MR. HUME: In other words, it is a continuous  
10 movement on one bill of lading.

11 MR. SINCLAIR: It is a movement that is contracted  
12 for from a place in one place to a place in another, and  
13 that doesn't necessarily have to be a continuous movement,  
14 because it may have to be consolidated, or it may have to  
15 be held back, and various things like that.

16 MR. HUME: Ottawa-Hull would be another good  
17 example in your case.

18 MR. SINCLAIR: Yes.

19 MR. HUME: Ontario, Quebec.

20 MR. SINCLAIR: Q. You say you don't answer  
21 that because of your position. The next one is --

22 MR. MAGEE: Well, I don't answer it because  
23 I have instructions, Mr. Sinclair.

24 Q. And the next question I ask you would be  
25 this: Would you not agree, and I suggest to you this,  
26 that your bill, as you propose it, would be more in the  
27 public interest if it were restricted in regard to entry  
28 to the fact that any person attempting to enter into  
29 extraprovincial movement would have to prove public  
30 convenience and necessity, and that is all.

MR. MAGEE: Well, perhaps - no, that is not





1  
2 what is in the bill, Mr. Sinclair.

3 Q. There are lots of things in the bill,  
4 Mr. Magee. I am suggesting to you that it would be  
5 more in the public interest if that was the only criterion  
6 of entry, it could apply to any person.

7 MR. MAGEE: Well, we have provisions in regard  
8 to rail entry, Mr. Sinclair.

9 Q. That is for the protection of truckers.  
10 Let's worry about the protection of public interest.

11 MR. MAGEE: No, that isn't the wording of the  
12 bill, Mr. Sinclair. The wording of the bill in regard  
13 to rail entry is that the board will consider the public  
14 interest, not the interest of truckers.

15 Q. Then I would say that the board would apply  
16 the same principles of public interest, in my questions  
17 to you, that any person who was attempting to enter would  
18 have applied to them the same rule.

19 MR. MAGEE: You are saying if an operator proves  
20 public necessity and convenience there is inherent there  
21 the consideration of public interest?

22 Q. Yes.

23 MR. MAGEE: I want to make sure I understand  
24 the question.

25 Q. And that was applied to whoever the  
26 person may be, corporate, individual or otherwise.

27 MR. MAGEE: Well, without getting into an  
28 exercise in wording, we have these views on rail entry  
29 which we felt we should put before the Commission, and  
30 we feel that that particular issue requires special  
provision in the act, and that provision is the question







1  
2 of public interest.

3 Q. I see. Well, we will discuss that on  
4 rail entry. So you believe that it is in the public  
5 interest not to simplify this bill in this regard:  
6 First, that it apply only to the filing of tariffs, the  
7 publication of rates and the imposition of penalties  
8 on freight movement interprovincially. Point No. 2,  
9 that the criterion of entry would be public convenience  
10 and public necessity, and this would be applied equally  
11 to all persons. Point No. 3 is the one I want to put  
12 to you, and that is this, that the board that would  
13 administer this should be a single board operated  
14 throughout the length of the country, the appointees  
15 to which would represent each of the sectional interests  
16 in Canada, and it would be a single board with a permanent  
17 staff and it would move throughout the country, appointed  
18 either in concert with the provincial governments and the  
19 federal government or the federal government.

20 MR. MAGEE: Well, our views are the views that  
21 we have expressed in the submission, Mr. Sinclair, and  
22 these are the views of the association.

23 Q. That answers the next question, which means  
24 that you wish to have a board with a possibility of  
25 rapidly changing and numerous changes in personnel.

26 MR. MAGEE: I have a reservation --

27 Q. You say why I say rapidly changing?

28 MR. MAGEE: Yes.

29 Q. Just because the people who were going to  
30 sit on this board would be humans, and you have so many  
people and combinations of them that the grim hand of





1  
2 this or that could quite equally apply to them in a  
3 probability curve.

4 MR. MAGEE: Well, the grim hand of this and  
5 that could affect the Board of Transport Commissioners.

6 Q. But it only operates with a few.

7 MR. MAGEE: No, you have ten boards and  
8 a bigger reservoir.

9 Q. That is my point, and I think if you will  
10 think about it, that is not working towards the position  
11 of consistency of application and having the same  
12 personnel.

13 MR. MAGEE: I don't think we would agree with  
14 that, but those are your views.

15 Q. Now, I want to turn to one other subject.  
16 I think possibly this bill, Mr. Chairman, - the deficiencies  
17 of it are unfortunately great, and it is a field that I  
18 think the trucking associations, having some problems,  
19 have overstepped the bounds in trying to solve the  
20 problems that they have. But I think rather than take  
21 up more --

22 MR. MAGEE: I don't think we have overstepped  
23 the bounds in suggesting a solution to the Highway Transport  
24 Act. I remember the day when the railways suggested  
25 control of the trucking industry.

26 Q. The railway which I represent never did  
27 suggest legislation that covers the elements and the  
28 points that you have here. I put to you a type of  
29 simplified bill that might draw some support that you  
30 didn't seem to want to go along with. So I leave that  
and the position of my client will be made clear in argument







1  
2 in accordance with the instructions I get.

3 MR. HUME: Just to clarify, Mr. Chairman,  
4 -- if the simplified bill is reduced to writing, we  
5 will submit it to the board of directors of Canadian  
6 Trucking Associations.

7 MR. SINCLAIR: I will not reduce it to writing.

8 MR. MAGEE: We would take a very open look at  
9 your bill if you did reduce it to writing, Mr. Sinclair.

10 Q. In any event, I am going on to another  
11 subject. Now, this is the question of subsidies.  
12 So that there be no misunderstanding, I want to deal  
13 first with the bridge subsidy, and I want to make it  
14 clear that Canadian Pacific was opposed to that bridge  
15 subsidy in principle, and it opposed the bridge subsidy  
16 in the way it was calculated, and, to make it clear,  
17 we are opposed to its application to the trucking industry  
18 in principle, and for numerous reasons, and some of them  
19 were alluded to by Mr. Mauro. So far as Canadian  
20 Pacific is concerned, we do not agree with the bridge  
21 subsidy or application, and that was our position before  
22 it was introduced, and it is our position today.  
23 This is a matter of argument, so therefore, you will  
24 understand why I am not putting questions to you on it.

25 Now, go to the next one, the Maritime Freight  
26 Rates Act. You have answered questions of other counsel  
27 on this, and I won't spend too much time on it. But I  
28 am not clear and I did not understand your proposals  
29 in one regard, and I wonder if you would assist the  
30 Commission and also myself by telling the Commission how  
the Maritime Freight Rates Act could be applied to truck





1  
2 rates as it is fundamental to that legislation that there  
3 has to be normal rates and tell me why it would apply  
4 on an intraprovincial New Brunswick movement?

5 MR. MAGEE: Well, I would have to give my  
6 answer to your question, Mr. Sinclair, from the submission  
7 that we made to the Interdepartmental Committee on  
8 April 6, 1959. You deal with an intraprovincial New  
9 Brunswick truck rate. We deal with the general ques-  
10 tion of the subsidization of the trucking industry under  
11 the Maritime Freight Rates Act.

12 Q. I know that. I am asking you a specific  
13 question, Mr. Magee, and that is, in the light of your  
14 principle that the Maritime Freight Rates Act should be  
15 applied to trucks as well as to railways, and presumably  
16 as well to ships - you agree it should be applied to  
17 shipping, too?

18 MR. MAGEE: I think it is fair that it should  
19 be applied to all forms of transport not at present  
20 covered by the Maritime Freight Rates Act, but which  
21 are affected by it.

22 Q. That would be all within the select  
23 territory?

24 MR. MAGEE: Public carrier transportation  
25 affected by the act at the present time and which is  
26 not subject to the act.

27 Q. That would be air, shipping, trucks.

28 MR. MAGEE: Well, of course, we deal specifi-  
29 cally with the trucking industry.

30 Q. I am dealing with it in principle with  
you.







1  
2 MR. MAGEE: Yes. But I can't make any  
3 detailed proposals in regard to air and steamship.  
4 I am not authorized to speak.

5 Q. But there is a problem where you have  
6 unregulated rates in developing what is the normal rate,  
7 and that is why I specifically picked for you an easy  
8 movement to test your principle, a truck movement intra-  
9 New Brunswick.

10 MR. MAGEE: Yes.

11 Q. And I am asking you on what the normal  
12 rate on that movement would be judged to which the  
13 reduction in the Maritime Freight Rates Act would apply?

14 MR. MAGEE: Well, our views have been stated  
15 in the submission to the Interdepartmental Committee.  
16 I am going to be here on Monday, and I can give them  
17 then.

18 Q. I will take them now, if you have them.

19 MR. MAGEE: It is on page 29, Mr. Commissioner,  
20 of the submission to the Interdepartmental Committee of  
21 the government of Canada inquiring into the maritime  
22 transportation problems. It starts off at the bottom  
23 of the page under the heading "Recommended Form of  
24 Subsidy for the Trucking Industry".

25 Q. This is dealing with the Maritime Freight  
26 Rates Act?

27 MR. MAGEE: Yes.

28 "There are basically two alternatives which might be  
29 considered: treating the truckers in exactly the  
30 same way as the railways, in other words, bringing  
them within the Maritime Freight Rates Act; or





1  
2 "establishing a different form of subsidy for  
3 trucks, which might be administratively more approp-  
4 riate to their type of operations, while giving  
5 aggregate benefits comparable with those enjoyed  
6 by the railways under the Maritime Freight Rates  
7 Act. The former is strongly recommended."

8 Q. That is something different.

9 MR. MAGEE: Well, I am going to have to stick  
10 to what we have here, because this is what has been con-  
11 sidered by the association, and I can't amend it, or  
12 I might not be here on Monday if I did.

13 THE CHAIRMAN: Finish reading. Are you  
14 finished?

15 MR. MAGEE: No, I am not, sir.

16 "As we have concluded above it is desirable that  
17 trucks be subsidized to the same extent as railways,  
18 no more and no less. In satisfying this principle,  
19 a direct approach laying down the same conditions  
20 for both road and rail would be far more satis-  
21 factory in that it would necessarily treat the  
22 two media equally. Any alternative forms of  
23 subsidy for truckers would involve comparison of  
24 unlike cases and inevitably lead to much wrangling  
25 by both industries, each supported by copious data  
26 to show that the other is receiving more aid. The  
27 history of conflicts, enquiries and evidence be-  
28 tween the railways and trucking industry in the  
29 United States and Canada is already so overloaded  
30 with statistical attempts to draw firm conclusions  
from incomparable data, that the creation of any







1  
2 "further field for such argument is to be avoided  
3 if at all possible.

4 From this standpoint the simplest method would  
5 be to amend the Maritime Freight Rates Act so that  
6 its provisions are applicable to truck as well as  
7 rail transport. It is doubtful, however, whether  
8 the same administrative technique for enforcing  
9 these provisions would be as applicable to truck  
10 as to railways. Put briefly, the system for the  
11 railways involves two major stages. Two separate  
12 tariff schedules are laid down, one the "normal"  
13 tariffs and one the reduced rates. The railways  
14 periodically submit accounts of movements under the  
15 Act and claim the difference between the tariffs  
16 as a government subsidy. This system has three  
17 major difficulties for truck operators. The  
18 rigid laying down of tariffs is contrary to the  
19 trucking practice of quoting rates based on trip  
20 costs, and is not desirable for the more  
21 flexible form of transport. Trucking companies  
22 do not normally keep such regular accounts as the  
23 railways, and this necessity would be a particular  
24 burden on the small trucking firm. Finally small  
25 scale truckers do not have the funds with which to  
26 finance operations over the period while awaiting  
27 claim for the subsidy. How far could these  
28 obstacles be overcome without violating the pro-  
29 visions of the Act?

30 The two tariff schedules are in part illusory  
since one is a regular percentage reduction of the





1  
2 "other. The regulation of rates for railways was,  
3 and continues to be, necessary to protect the public  
4 interest; the monopoly position of the railways  
5 has not been completely removed by competition.  
6 In the trucking field, competition between truck  
7 operators ensures that charges are accurate  
8 reflections of costs. Introduction of motor carrier  
9 legislation in New Brunswick and, more recently,  
10 in Nova Scotia and Prince Edward Island, will  
11 ensure additional protection for the public inter-  
12 est, rate regulation, in all three cases, being  
13 provided for. Shippers will have recourse if they  
14 consider that truck rates are unfair or unjustly  
15 discriminatory. The type of rate regulation is  
16 the filing of tariffs, so that inter-carrier com-  
17 petition within the trucking industry, is preserved.  
18 Normal trucking rates will thus continue to be  
19 based fairly on costs. As the subsidy is a fixed  
20 percentage of normal rates, the regulatory pro-  
21 visions for railway rates are not required in  
22 identical form in respect to truck rates in order to  
23 protect the public interest."  
24  
25  
26  
27  
28  
29  
30

(Page 11445 follows)







1  
2 Q. You think that answers my question, Mr.  
3 Magee?

4 MR. MAGEE: Well, that is the answer that I  
5 am authorized to give to your question.

6 Q. Whether it answers it or not, is that what  
7 you mean?

8 MR. MAGEE: Well, I don't know ---

9 Q. Let me try again. I am asking you how the  
10 level between the normal rate as fixed by the regulatory  
11 tribunal and the rate under which the traffic moved,  
12 would be developed on an intra-New Brunswick movement by  
13 highway?

14 MR. MAGEE: Well, I think that we have dealt  
15 generally with that problem in these words.

16 Q. You said in those remarks that the levels  
17 of railway rates were largely illusory?

18 MR. HUME: No, no. If you are going to  
19 quote him, quote it accurately. He said that the  
20 question of the two tariffs which were raised were largely  
21 illusory because one was the reduction of the other.

22 MR. SINCLAIR: It sounds like my friend  
23 drafted them; he remembers it so well.

24 MR. HUME: I am listening intently.

25 MR. SINCLAIR: I see. It is a good job you  
26 do that sometimes.

27 Q. Mr. Magee, who would fix the level of the  
28 truck rate as being just and reasonable in New Brunswick,  
29 the individual truck rate?

30 MR. MAGEE: Well, I have no instructions beyond





1 the views that I have just read to you, Mr. Sinclair.

2 Q. What the truckers have down there is a  
3 problem, isn't it, Mr. Magee, that arises from the  
4 Maritime Freight Rates Act being applicable to com-  
5 petitive rated and agreed charge tariffs; isn't that  
6 really their problem?  
7

8 A. Well, even when a subsidy is paid to help  
9 the shipper it is paid to the railway, through a reduc-  
10 tion on non-competitive rates, and we consider that that  
11 is either an actual or a potential problem.

12 Q. Let me put it this way to you: I suggest  
13 to you that the trucking industry wouldn't be concerned,  
14 and neither would any other competing industry, if the  
15 Maritime Freight Rates Act were amended to provide that  
16 it doesn't apply to railway rates that are truck, water  
17 -- that is, the competitive rates -- or agreed charges.  
18 You would agree with that?

19 MR. MAGEE: In other words, that the Maritime  
20 Freight Rates Act ---

21 Q. Would apply on class rate railway traffic?

22 MR. MAGEE: Non-competitive?

23 Q. And non-competitive rate traffic, yes.

24 MR. MAGEE: No, we wouldn't agree with that,  
25 either, Mr. Sinclair.

26 Q. If the shippers are satisfied to move  
27 traffic that way, and they have, then, a choice of  
28 moving it at competitive rates without subsidization,  
29 why shouldn't the shipper in the maritimes be left to  
30 allow the Maritime Freight Rates Act to operate in the







1 way it was intended to operate; that is, to provide  
2 for the rail movement of goods from the maritimes into  
3 central and western Canada and within the maritimes  
4 territory.

5 MR. MAGEE: Well, we think that the shippers  
6 in the maritime provinces will come increasingly to the  
7 view, and there is some evidence they are coming to  
8 the view already, that if there is to be this type of  
9 assistance it should be available for use by them in  
10 regard to the form of transport of their choice.  
11 That is in accord, I think, with the policy of the  
12 Canadian Pacific Railway on subsidies.

13 Q. I am asking you whether -- and I take  
14 it your answer is no -- the trucking association that  
15 you represent wouldn't be satisfied if the Maritime  
16 Freight Rates Act as it is now constituted, applied  
17 only on the class and non-competitive rated traffic?

18 MR. MAGEE: No, we say exactly the opposite  
19 in our submission, and we say that -- we have gone into  
20 this question of the non-competitive rates, Mr. Sinclair,  
21 and the non-competitive traffic-- are you going to let  
22 me answer ---

23 Q. I thought your answer to that was no, and  
24 why you say no is not of any concern to me.

25 MR. MAGEE: But it might be of assistance  
26 to the Commission.

27 Q. You have already stated on the matter ---

28 THE CHAIRMAN: Let him answer.

29 MR. HUME: You will accept his answer, please,  
30





1 and qualify it later on if you don't like it.

2  
3 MR. SINCLAIR: Q. Very well, Mr. Magee.

4 MR. MAGEE: Well, our position on the non-  
5 competitive traffic or the traffic that is moving  
6 under non-competitive rates, is that that traffic is  
7 at least potentially competitive, and the evidence of  
8 that fact is that it has been continually shrinking  
9 under the impact of truck competition, so we say that if  
10 you can find a freight rate reduction subsidy for the  
11 assistance of the shippers to the railway as the chosen  
12 instrument of that assistance and put it on the non-  
13 competitive traffic only, you are still either actually  
14 or potentially establishing an artificial protective  
15 backing to competition, and we don't think that that is  
16 a proper policy.

17 Q. What you are saying is you think that  
18 freight rates should not be used as instruments for  
19 national policy, isn't that true?

20 MR. MAGEE: Freight rates?

21 Q. Yes.

22 MR. MAGEE: Well, I have no specific instruc-  
23 tions on that point either, Mr. Sinclair.

24 Q. But if freight rates were not used as  
25 instruments for the implementation of national policy,  
26 then you would be quite prepared to support that type  
27 of situation as it applies in the maritimes, would you?

28 MR. MAGEE: The present situation?

29 Q. No, a situation that arose out of the  
30 recommendation from this Commission that in regard to







1  
2 the Maritime Freight Rates Act that this Act should be  
3 repealed?

4 MR. MAGEE: Yes.

5 Q. Because freight rates in the maritimes,  
6 and in the movement of traffic from the maritimes to  
7 central Canada, were an improper instrument for  
8 carrying out the purposes that were behind the sub-  
9 sidization that is paid under that Act?

10 MR. MAGEE: Well, Canadian Trucking Associa-  
11 tions does not propose a repeal of the Maritime Freight  
12 Rates Act, Mr. Sinclair. We made some proposals that  
13 we think will make the Act more effective and a fairer  
14 instrument for the assistance of the shipper in 1960  
15 as compared with 1927 when there was no trucking  
16 industry in the maritime provinces.

17 Q. There was a shipping industry, wasn't  
18 there?

19 MR. MAGEE: Yes, I suppose there was, Mr.  
20 Sinclair.

21 Q. And you know that the basis of the rates  
22 in the maritimes on movements to and from western  
23 Canada all reflect a competitive factor; did you know  
24 that?

25 MR. MAGEE: The movement of which?

26 Q. The way the freight rates on the railway  
27 are constructed for movements of goods between central  
28 Canada and the maritimes.

29 MR. MAGEE: Yes.

30 Q. Reflect a competitive factor, water; did





1 you know that that was there?

2 MR. MAGEE: I don't know the actual tariffs,  
3 but I am sure that it does, Mr. Sinclair.  
4

5 Q. Do you know how these rates are constructed  
6 for the movement of these goods?

7 MR. MAGEE: I haven't the faintest idea.

8 Q. Did you know that the reason why possibly  
9 some of the goods move the way they do by rail is be-  
10 cause of the way these rates are constructed and they  
11 are prescribed, their construction is prescribed?

12 MR. MAGEE: This is central Canada to the  
13 maritimes?

14 Q. Or between; up or down?

15 MR. MAGEE: I don't know as between the  
16 railways and water rates.

17 COMMISSIONER MANN: If you give Mr. Magee the  
18 key word of arbitraries; he might look it up some time.

19 MR. SINCLAIR: Q. They are worked on arbi-  
20 traries.

21 MR. MAGEE: Yes.

22 Q. What I am suggesting to you, arising  
23 from that, if freight rates and movements by highway  
24 were to be covered by payment of a subsidy for the  
25 assistance of the shippers in the maritimes you, of  
26 course, would agree that the regulator authority would  
27 apply arbitraries in the construction of the truck  
28 rates to make it even?

29 MR. MAGEE: Well, I have just said that I  
30 don't know about those arbitraries, Mr. Sinclair, and I







1  
2 certainly shouldn't now reflect very much credit on  
3 myself if I started putting arbitraries in our submis-  
4 sion.

5 Q. Well, freight rate arbitraries, Mr.  
6 Magee, and I take it that you were not trying to be  
7 funny with that?

8 MR. MAGEE: No, I am not trying to be funny  
9 with you, Mr. Sinclair.

10 Q. Let me ask you this: were the basis of  
11 the way the rates were constructed between central  
12 Canada and the maritimes discussed before this policy  
13 was evolved that you have put in the record as to the  
14 application of the maritime freight rates assistance to  
15 the shippers being applicable to trucks?

16 MR. MAGEE: We looked at the broad picture,  
17 Mr. Sinclair, and did our best to come up with something  
18 that we thought was fair.

19 Q. Let me ask you a specific question. You  
20 were there; have you ever heard the way railway rates  
21 are constructed in the use of arbitraries in railway  
22 rates, and the reasons why they were there discussed,  
23 and all these matters of obligation on the railways  
24 with respect to traffic to and from the maritimes?

25 MR. MAGEE: We are coming to the question of  
26 extending all kinds of applications to the trucking  
27 industry that the railways have under some existing  
28 subsidy, but that doesn't necessarily follow (a)  
29 that the obligations on the railways should continue in  
30 the present form, particularly if the trucking industry





1  
2 might be put into the picture and (b) that the obliga-  
3 tions, even if they remain on the railway, can be  
4 extended to the trucking industry. There are a lot  
5 of factors to consider.

6 Q. I can see you are anticipating my dis-  
7 cussion with you on statutory rates, and I will be  
8 glad to accommodate you on that in due course, but let  
9 us stick now down in the maritimes and look at the  
10 traffic down there; what was behind the policy statement  
11 of the Canadian Trucking Associations in regard to the  
12 application of the maritime freight rate assistance,  
13 which is given under the Maritime Freight Rates Act,  
14 and my question to you was this, for the assistance of  
15 the Commission: when that policy was enunciated, was  
16 the manner in which the arbitraries are applied on  
17 traffic moving between the maritimes and central  
18 Canada and west, were they taken into account by your  
19 trucking association?

20 MR. MAGEE: I don't recall them being dis-  
21 cussed at any meeting. It may have been considered  
22 when this was being drafted.

23 Q. This could have a material effect on  
24 whether it would be right to maintain the special pro-  
25 visions in regard to rail rates on traffic moving between  
26 the maritimes and central Canada, wouldn't it?

27 MR. MAGEE: I don't know.

28 Q. It is a matter ---

29 MR. MAGEE: You yourself said the other day,  
30 Mr. Sinclair, when you cross-examined Mr. Paul







1 that the law was a living, changing thing.

2 Q. All except in one regard.

3 MR. MAGEE: Yes, I noticed you put in a  
4 qualification.

5 Q. Don't try to forget that because that is  
6 the most important issue this Commission has before it.

7 MR. MAGEE: I know your views on that, Mr.  
8 Sinclair.

9 Q. It cannot live and it cannot grow; in  
10 fact, it is causing so much difficulty it is a wonder  
11 the rest of the forest is still there.

12 MR. HUME: Surely this is argument.

13 MR. SINCLAIR: My friend introduced this, not  
14 me.

15 MR. MAGEE: I thought it was a very cogent  
16 observation.

17 MR. SINCLAIR: Q. What you are saying,  
18 then, I take it, is that if arbitraries in the manner  
19 in which railway rates are constructed present any diffi-  
20 culties, then this, concomitantly is recommending  
21 the application of the Maritime Freight Rates Act, and  
22 recommend the elimination of such a restriction?

23 MR. MAGEE: I have no instructions to comment  
24 on that point.

25 THE CHAIRMAN: I think, Mr. Sinclair, the  
26 witness has said he doesn't know what the implications  
27 are.

28 MR. SINCLAIR: All I am pointing out to the  
29 Commission, Mr. Chairman -- and I hope you will pardon  
30





1  
2 me for making this comment -- that this indicates  
3 that the implications that flow from some of these  
4 recommendations can be quite different than the witness  
5 and the people who propose them expect. That is why I  
6 am expressing it.

7 MR. HUME: That doesn't necessarily follow  
8 at all, because the policies were made by people who  
9 may very well be very conversant with this particular  
10 subject and have taken it under consideration. Mr.  
11 Magee is not the maker of the policy; he is merely  
12 reading the stated policy out.

13 MR. SINCLAIR: He is the best spokesman they  
14 could find.

15 MR. HUME: Hear, hear.

16 THE CHAIRMAN: I think we will adjourn now.

17  
18 ---Short recess.  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30







1  
2 Q. Mr. Magee, just another fundamental  
3 concept: Canadian Trucking Associations, fundamentally,  
4 are averse to transportation subsidies per se?

5 MR. MAGEE: In our submission we dealt with  
6 our views on that matter at page 5.4, paragraph 8.

7 Q. "Subsidy can be justified but only when  
8 it is the sole means of implementing a policy which is  
9 in the public interest."

10 MR. MAGEE: Yes.

11 Q. I have that underlined as a fundamental  
12 concept of Canadian Trucking Associations?

13 MR. MAGEE: Yes.

14 Q. I wanted to see if you agreed with that?

15 MR. MAGEE: Yes.

16 Q. That is what it is?

17 MR. MAGEE: Yes.

18 Q. Therefore what you are saying is that  
19 transportation subsidies be used to carry out regional  
20 assistance and is something that should only be used  
21 as a last resort; correct?

22 MR. MAGEE: Yes, I think that is correct.

23 Q. And if a subsidy is to be paid through  
24 transportation, the purpose of the subsidy and the  
25 assistance it is meant to give should be clearly  
26 shown; for instance, that subsidy for the assistance  
27 of the maritime provinces' economy through freight  
28 rates should be known as a maritime subsidy?

29 MR. MAGEE: Yes, we believe, and we stated  
30 in our submission, that the true purpose of the subsidy





1 payment must be easily recognizable.

2 Q. And again, Canadian Trucking Associations  
3 would want to have the true amount of the payment in-  
4 volved in the subsidy clearly discernable?  
5

6 MR. MAGEE: Yes.

7 Q. In your discussions with Mr. Cooper earlier  
8 this week you indicated to him that the growth of the  
9 trucking industry, in part, flows from the better  
10 highways and the more highways that have been opened  
11 up over the last few years?

12 MR. MAGEE: Yes.

13 Q. That is a paraphrase of his question and  
14 your answer: would you agree with that as being fair?

15 MF. MAGEE: That is one of the factors.

16 Q. And it is an important factor?

17 MR. MAGEE: An important factor, definitely.

18 Q. One of the ways that highways have been  
19 opened up and improved is by the payment of federal  
20 funds?

21 MR. MAGEE: Yes.

22 Q. Would you please, for the assistance of  
23 the Commission, tell them how the trucking industry in  
24 Canada helps the federal government in any way in the  
25 recovery of the payments it makes for the building of  
26 highways?

27 MR. MAGEE: Well, we pay tremendous amounts of  
28 money, I think, in sales and excise taxes to the govern-  
29 ment.

30 Q. So does the Canadian Pacific Railway.







1  
2 MR. MAGEE: Yes.

3 Q. In respect of its diesels that can't get  
4 on the highway?

5 MR. MAGEE: Yes.

6 Q. So does every other Canadian who buys  
7 things?

8 MR. MAGEE: Yes.

9 Q. So, that is not an answer, is it? Just  
10 tell me how the trucking industry -- does it pay a  
11 federal gasoline tax?

12 MR. MAGEE: Not now.

13 Q. Does it pay a federal licence fee?

14 MR. MAGEE: No.

15 Q. Does it pay a federal registration fee?

16 MR. MAGEE: No, it does not pay any of those  
17 things.

18 Q. So that it does not, as an industry, pay  
19 for the moneys put out by the federal government for  
20 the building of highway, as an industry?

21 MR. HUME: You mean directly?

22 MR. SINCLAIR: Q. Or indirectly, for the  
23 movement over that highway.

24 MR. MAGEE: Well, we pay various kinds of  
25 taxes, as I have said, to the federal government.

26 Q. But you are no different from a person,  
27 like the Canadian Pacific, in that regard, who does  
28 not use that highway from its railway?

29 MR. MAGEE: "From its railway"?

30 Q. That is what I said.





1  
2 MR. MAGEE: No; we are now dealing with  
3 right-of-way subsidies as distinct from freight rate  
4 reduction subsidies.

5 Q. Well, are you saying that -- you are ad-  
6 mitting, are you, on behalf of Canadian Trucking Associa-  
7 tions that there is a subsidy in regard to highways  
8 than in regard to moneys put up by the federal government?

9 MR. MAGEE: We think that we make a healthy  
10 contribution to the tax coffers of the federal government,  
11 and I think that even if we were not in existence, and  
12 the private automobile was, these highways would be  
13 built.

14 Q. But there is no way that by the relation  
15 of use by the trucking industry of that highway, of  
16 itself, the money comes back into the federal government?  
17 So, there is a subsidy of some degree?

18 MR. MAGEE: Except indirectly, as the truck-  
19 ing industry grows and pays more taxes to the federal  
20 government.

21 Q. And in that they are the same as every  
22 other Canadian whether he uses the road or does not use  
23 the road?

24 MR. MAGEE: Yes. Other forms of transport, of  
25 course, have been subsidized in order to -- I am not  
26 saying the trucking industry is -- but other forms of  
27 transport in receipt of what we might call roadbed  
28 subsidies, subsidies to enable them to get started and  
29 to serve Canada.

30 Q. Well, we are just talking about the





1 trucking industry at the moment, and I now want to know  
2 if you would agree with this, that in British Columbia  
3 the trucking industry is being subsidized through the  
4 building of highways and the maintenance of highways  
5 by the provincial government?

6 MR. MAGEE: I assume the provincial government  
7 in British Columbia is making sure that the trucks pay  
8 their fair share for the use of the highways they have  
9 constructed.

10 Q. You assume that?

11 MR. MAGEE: I would think that would be their  
12 responsibility, and I assume they are carrying it out.

13 Q. But, in your close association with the  
14 trucking industry, remember that they made an inquiry  
15 and found the trucking industry were falling \$14  
16 million short of bearing their fair share?

17 MR. MAGEE: I mentioned that inquiry the other  
18 day in this witness box. I said when a provincial govern-  
19 ment in a particular province has reason to believe that  
20 the truck taxation structure is no longer realistic  
21 in relation to the use it makes of highways, then that  
22 provincial government will exercise its responsibility  
23 and take steps to see that the trucks pay their fair  
24 share.

25 Q. Yes, I read that answer in the transcript,  
26 and I hope you will pardon me for saying that the answer  
27 didn't seem to me to be responsive to the questions  
28 I am asking you. Just to orient you -- and I am not  
29 trying to trap you -- first I dealt with a situation  
30







1 where it was impossible for the trucking industry to  
2 return the money because there was no federal taxation  
3 directed towards you. Now I am dealing with one where  
4 there is that opportunity and where there was a finding  
5 of \$14 million of lack of the trucking industry paying  
6 its share of highway construction and maintenance costs.  
7 You remember that very well?  
8

9 MR. MAGEE: Yes, and a subsequent increase  
10 in truck taxes.

11 Q. Yes, but up to the time there was that  
12 increase, there was a direct subsidy to the trucking  
13 industry of British Columbia of \$14 million?

14 MR. MAGEE: Well, the Royal Commission felt  
15 that the trucks had reached a point where they were not  
16 paying their fair share and made recommendations, and  
17 they have been enacted by the legislature.

18 Q. And those recommendations increased the  
19 amount of their share by something around -- what was  
20 it -- \$9 million or \$10 million?

21 MR. MAGEE: I am not familiar enough with the  
22 facts there.

23 Q. Assume with me that they made it an extra  
24 \$10 million so that still left \$4 million?

25 MR. MAGEE: Yes.

26 Q. Now, in so far as there has been a finding  
27 of \$14 million by a Commission of subsidization through  
28 non-payment of fair share, and a raising of that only  
29 to \$10 million, then we have established, I think you  
30 will agree, that there is still a short fall of the





1  
2 trucking industry paying its fair share of \$4 million  
3 in British Columbia?

4 MR. MAGEE: I am not making any statement  
5 about a short fall or a long fall by the trucking indus-  
6 try in British Columbia in relation to truck taxes,  
7 because I could not possibly, with the duties that I  
8 have, be conversant with the truck taxation picture in  
9 ten provinces of Canada. I have said, and I have only  
10 said, that I assume that the trucks are paying their  
11 fair share, because I assume it is the responsibility  
12 of the provinces to see that they are and that the  
13 provinces will carry out that responsibility.

14 Q. Why do you make it an assumption that it  
15 is the responsibility of the province to see that the  
16 trucks are carrying their fair share of highway con-  
17 struction costs and maintenance? Where is that set  
18 out -- in provincial legislation?

19 MR. MAGEE: That is an assumption that has  
20 been made by other people -- the Turgeon Commission made  
21 it in its report in 1951.

22 Q. You are not agreeing with all the assump-  
23 tions the Turgeon Commission made, surely?

24 MR. HUME: He is agreeing with this one.

25 MR. MAGEE: Not too many interests in trans-  
26 portation agreed with all the assumptions made in  
27 Royal Commission reports.

28 Q. I am suggesting to you since the Turgeon  
29 Commission there have been inquiries in certain provinces  
30 which showed that that assumption was not correctly







1  
2 made: for instance, British Columbia -- the one you  
3 referred to the other day.

4 MR. MAGEE: And I said, corrective action had  
5 been taken by the government of British Columbia.

6 Q. Are you suggesting it corrected the  
7 imbalance shown? Is that the submission of CTA?

8 MR. MAGEE: Well, it accepted the report of  
9 the Commission, whether we agree with the report or not,  
10 and it took certain legislative action to implement the  
11 report.

12 Q. I asked you whether the position of CTA  
13 was that the action taken did result in covering the  
14 short fall of \$14 million?

15 MR. MAGEE: I said that I could not make any  
16 pronouncement on short fall or long fall in regard to  
17 truck taxation in British Columbia.

18 Q. If there is a subsidy by truckers not  
19 bearing their full fair share of highway construction  
20 and maintenance costs in Canada -- if that is so -- then,  
21 there is a direct subsidy to the highway transport  
22 industry in this country?

23 MR, MAGEE: If the truckers are not paying their  
24 fair share?

25 Q. There is a direct subsidy to the highway  
26 transport industry in Canada?

27 MR. MAGEE: Well, we assume they are paying  
28 their fair share.

29 Q. I am asking you on the assumption I put  
30 to you, would you agree there is a direct subsidy to





1 the highway transport industry in Canada?

2  
3 MR. MAGEE: How can I agree with it? I do  
4 think they are paying their fair share. Why would I  
5 go back and agree with an assumption they were not?

6 Q. Notwithstanding the fact there has been  
7 a detailed inquiry in British Columbia that found to the  
8 contrary?

9 MR. MAGEE: And legislation was implemented  
10 to put into effect the recommendations of the inquiry.

11 Q. Don't you think that in view of the fact  
12 this whole question of subsidization has been raised by  
13 you, that before this Commission follows your recommen-  
14 dations on it in any particular, that this Commission  
15 should recommend that a full and detailed inquiry be  
16 instituted as to whether the trucking industry in  
17 Canada is bearing its fair share of highway construction  
18 and maintenance costs in each and every province, in  
19 the national parks, and in all other streets, roads  
20 and everything else that they use throughout this  
21 country; would you not agree with that?

22 MR. MAGEE: I don't think the trucking industry  
23 is a defendant on the case of whether or not they pay  
24 their full share of highway costs. I don't think that  
25 parliament has made any assumption that they don't  
26 pay their fair share.

27 Q. Before this Commission deals with your  
28 recommendations on subsidy, don't you think it will be  
29 necessary for them to determine in accordance with the  
30 principles that you and I discussed earlier, that





1 subsidies should not be given, that the amount should  
2 be known, that they should be clearly marked, and these  
3 various other principles? Don't you think that should  
4 be a necessary requirement before they deal further  
5 with the recommendations of your Association on sub-  
6 sidies?

7  
8 MR. MAGEE: No, I don't think ----

9 Q. Well, you and I would disagree on that.

10 COMMISSIONER MANN: Are you leaving the sub-  
11 ject of whether or not the trucks are paying their fair  
12 share for the use of the road, Mr. Sinclair, because I  
13 have one question. You mentioned that since the Turgeon  
14 Commission several provinces have made an investigation  
15 into whether or not trucks pay their fair share for the  
16 use of the road. You mentioned British Columbia: was  
17 there any other?

18 MR. SINCLAIR: Ontario.

19 COMMISSIONER MANN: That was the increase in  
20 the diesel fuel?

21 MR. SINCLAIR: And the question of the im-  
22 position of the weight-distance tax. That is the other  
23 one I had in mind, and also I had in mind certain  
24 studies I happen to know have taken place in other  
25 provinces with respect to the impact of highway and ---

26 COMMISSIONER MANN: Such as the Nova Scotia  
27 study, for instance?

28 MR. SINCLAIR: That is right, sir. I didn't  
29 feel I wanted to get involved with the Commission and  
30 the witness, who I am sure has practically







1 memorized all those findings, and I think the point is  
2 brought to the Commission's attention.

3 Q. Now, Mr. Magee, we will move to this  
4 matter of statutory grain rates.

5 MR. MAGEE: Yes.

6 Q. And here I feel a little more at home.  
7 Basically the position of the trucking industry is that  
8 western grain to export positions should find its  
9 normal place in the rate structure, be a just and  
10 reasonable charge, and any assistance required by the  
11 farming community of western Canada should be paid by  
12 way of assistance to them. Does that properly summarize  
13 your position?  
14

15 MR. MAGEE: To the shipper.

16 Q. Yes?

17 MR. MAGEE: Yes, that is correct.

18 Q. Mr. Magee, when the Canadian Federation  
19 of Agriculture was here they had, like you, a spokesman  
20 -- a spokesman for the Association, and his name was  
21 Mr. Kirk. I don't know if you have had a chance to  
22 read his evidence.

23 MR. MAGEE: No, I haven't.

24 Q. Well, I am sorry, but would you take it  
25 from me that one of the pieces of evidence that he put  
26 before this Commission was this, that the farmers for  
27 whom he was the spokesman -- and this is the senior  
28 organization of farmers in Canada -- that the farmers  
29 for whom he was the spokesman were of the view that  
30 the farmers of western Canada through the statutory rates





1  
2 on grain moving to export positions, that these were  
3 a contract between the farmers and parliament?

4 MR. MAGEE: Yes.

5 Q. Indeed, some western gentlemen have  
6 referred to this as the Magna Charta of the western  
7 farmer. Have you ever heard that?

8 MR. MAGEE: Yes, I read a statement by the  
9 Prime Minister of Canada to that effect.

10 Q. Some people have misinterpreted that on  
11 more than one occasion. You will notice I have, I  
12 think, properly interpreted it -- a contract between  
13 the farmers and parliament.

14 MR. MAGEE: I am agreeing that these things  
15 have been said, yes.

16 Q. Now, Mr. Magee, in light of that do you  
17 think it is realistic to suggest that it would be  
18 acceptable to the western Canadian farmer to have the  
19 fixed rate on grain repealed, to have Magna Charta  
20 repealed, and in place receive direct assistance?  
21 Do you think that is a realistic proposal to make to  
22 this Commission.

23 -

24 -

25 -

26 -







1  
2 MR. MAGEE: We have suggested that the truck-  
3 ing industry be included in any proposed subsidy,  
4 Mr. Sinclair.

5 Q. That is another question. Let's keep  
6 on the question I put to you, Mr. Magee. I recognize  
7 it is a difficult one, and think it over. Do you think  
8 it is realistic to suggest to this Commission that it  
9 recommend that that contract between the western farmer  
10 and parliament be set aside, that the Magna Carta be  
11 repealed and there be substituted direct assistance  
12 to the western farmer in place of the fixed rate on  
13 export grain?

14 MR. MAGEE: Do I think it is realistic because  
15 these statements were made, and do I think it is realistic  
16 because of the views of these farm organizations? Is  
17 that the question?

18 Q. I am asking you, do you think it is  
19 realistic to recommend to this Commission that the  
20 Magna Carta of the western Canadian farmer, the statutory  
21 grain rates, be repealed and in place of that he receives  
22 direct assistance? I think it is quite right for me  
23 to ask this because you were good enough to put on the  
24 transcript here that you had dug right into this. So,  
25 in the light of that digging into the western situation,  
26 I am asking you again whether you think it is realistic  
27 to recommend to this Commission that the fixed statutory  
28 rates on grain be repealed and that there be substituted  
29 direct assistance to the western farmer?  
30

MR. MAGEE: We think it is realistic and  
proper and the right thing to do in regard to our





1  
2 responsibility to make the recommendations which we think  
3 should be made to the Commission, and that is what we  
4 have done, Mr. Sinclair. If some other people disagree  
5 with them -- well, some have already been here and  
6 others can come to express their disagreement.

7 Q. Do you think that the western farmer  
8 would accept the removal of the fixed rate on grain and  
9 the receipt of special assistance?

10 MR. MAGEE: It is not a question of what the  
11 western farmer will accept; it is a question of what  
12 parliament does about it, Mr. Sinclair.

13 Q. Of course, the western farmer has a way of  
14 accepting or rejecting things that parliament do, or  
15 don't you know about that?

16 MR. MAGEE: Well, I have read some of these  
17 transcripts, Mr. Sinclair, quite a few of them, and it  
18 seems to me we are getting now to the political consider-  
19 ations that we were asked about in regard to the draft  
20 of our highway transport act.

21 Q. That is the science of government, and  
22 that is the science of satisfying the majority of the  
23 people and the perpetuation of the fine policies that  
24 the government in power have introduced and they have  
25 introduced thinking they should be continued.

26 MR. MAGEE: I will put my answer this way,  
27 that the proposals that the railways have made in regard  
28 to the Crow's Nest Pass grain rates, according to our  
29 understanding of various things that have been said in  
30 various places, are not acceptable to the western farmers.  
But the railways have come forward and put these proposals







1  
2 before the Commission, they think it is the right thing  
3 to do, what they have recommended, and we are in the  
4 same position. We want to co-operate with the  
5 farmers; we certainly understand their importance in  
6 the economy of Canada, but we are here representing the  
7 trucking industry, and we think that under your  
8 proposals there is going to be a wrong situation if that  
9 subsidy is confined only to the railways.

10 Q. Your suggestion is the same suggestion  
11 that was made by the Canadian Pacific Railway some ten  
12 or twelve years ago, and that is that the grain rates  
13 should find their normal level and any assistance needed  
14 by the western community should be received direct as  
15 a direct subsidy to themselves.

16 MR. MAGEE: Yes, there is a similarity to  
17 your proposal of eleven or twelve years ago, that is  
18 quite true.

19 Q. Now, Mr. Magee, are you under any mis-  
20 understanding in regard to the way grain moves? Do  
21 you think that the central marketing and shipping through  
22 agency handles all grains that are covered by the  
23 Crow's Nest statutory rates?

24 MR. MONTAGUE: I didn't understand your  
25 question.

26 Q. Do you think, for instance, that the  
27 Wheat Board handles all the grains that get the benefit  
28 of the statutory rates?

29 MR. MONTAGUE: No, that is not my under-  
30 standing. There are some independent movements.

Q. Such as what?







1  
2 MR. MONTAGUE: As I understand it, the wheat  
3 pool exercises control over all movements as a result of  
4 dictating when and where storage space would be available,  
5 but independent elevator companies may move their own  
6 rye and flax.

7 Q. And do you think, Mr. Montague, that the  
8 Wheat Board has any direction over the movement of flour  
9 and mill stuffs?

10 MR. MONTAGUE: I want to give this a little  
11 thought. As I recall it, it has to do with the extension  
12 of the in transit rate. I couldn't give you an accurate  
13 answer.

14 Q. We could agree on this, and possibly  
15 these questions should be put to Mr. Montague, because,  
16 as a westerner, even with your great talents, Mr. Magee,  
17 he may be more familiar with them.

18 Mr. Montague, you would agree that there are  
19 numerous shippers of commodities that are moving under  
20 the satutory grain rate level?

21 MR. MONTAGUE: Yes, that is correct.

22 Q. Now, Mr. Montague, while you are there,  
23 from your knowledge of Canada and the trucking industry,  
24 you would agree that movements of grain from branch line  
25 points to main line points in western Canada would be a  
26 one-way haul for practically all movements?

27 MR. MONTAGUE: I couldn't agree with that.  
28 I think it would be predominantly a one-way haul for  
29 the railway that was servicing a branch line due to the  
30 inflexibility of the railways. But I have in mind that,  
as a shipper may evolve a circular route, it may not be





1 a one-way haul for him.

2  
3 Q. Do you think there is more tonnage of  
4 grain moving than there is for inbound supplies, and,  
5 if there is, you have got a one-way movement?

6 MR. MONTAGUE: I thought you were referring  
7 to particular branch lines.

8 Q. No, I am talking about branch lines which  
9 are gathering points.

10 MR. MONTAGUE: Yes, I would say that is  
11 correct.

12 Q. Very substantially in excess?

13 MR. MONTAGUE: Yes.

14 Q. In the light of that, could you assist  
15 the Commission, Mr. Montague, by telling them what  
16 would be the long-term variable cost per ton mile for  
17 hauling grain, say, 100 miles in a vehicle with a 25-  
18 ton gross weight?

19 MR. MONTAGUE: I certainly could not be of  
20 assistance in that regard.

21 Q. Maybe I could help you. You made  
22 reference to a study by Mr. G. A. Wagdin?

23 MR. MONTAGUE: That is correct.

24 Q. Before we do this, maybe it would be  
25 well to ask this: Mr. Magee, you would agree that the  
26 intercity for-hire truckers were not unduly profitable  
27 in 1957, the operations? Some of them were in  
28 financial difficulties, indeed?

29 MR. MAGEE: Yes, in 1957 some were in  
30 financial difficulties, certainly. There are some







1  
2 in financial difficulties every year, Mr. Sinclair.

3 Q. But 1957 was not a booming year for the  
4 trucking industry, intercity?

5 MR. MAGEE: Well, I haven't made a study of it,  
6 Mr. Sinclair.

7 Q. Have you not looked at the motor carrier  
8 freight statistics?

9 MR. MAGEE: Yes, I have looked at them.

10 Q. They showed that they had a very small  
11 percentage of net to gross, operating revenues to gross.  
12 Then, in view of that, Mr. Montague or Mr. Magee -- I  
13 don't know who will answer this one -- it is agreed  
14 by transport economists and cost analysts that the  
15 per cent variability of the trucking industry is very  
16 high, 90 per cent?

17 MR. MAGEE: This is a question for Mr. Montague.

18 MR. MONTAGUE: I confess that I didn't under-  
19 stand the question.

20 Q. That the variability of the trucking  
21 industry is a high per cent, its cost are highly variable.  
22 They are shown to be 90 per cent variable, trucking costs  
23 90 per cent variable with traffic?

24 MR. MONTAGUE: I would think that your state-  
25 ment is correct. But to make a proper answer I would  
26 have to check through our material. But we are a very  
27 highly variable cost industry.

28 Q. I think with that on the record and the  
29 suggestion I made to you to find out the variable cost  
30 of trucking grain 100 miles and on a 25 gross ton weight





1  
2 vehicle, I could turn now, with your permission, Mr.  
3 Commissioner, to page 10 of Mr. Wagdin's study in which  
4 he says for the year 1957:

5 "For-hire trucks of over 25 tons gross  
6 vehicle weight (those larger vehicles which  
7 don't have any competition with the railways )  
8 averaged about 110 miles per haul and earned  
9 an average revenue per ton mile of 6.3 cents."

10 Then he goes on to compare these figures to the railways'  
11 average of 1.52, and the next sentence is not pertinent.  
12 to what I am dealing with, but on the next page he deals  
13 with the average revenue per ton mile for longer hauls,  
14 and for 406 miles the average revenue per ton mile was  
15 5.5 cents, and when he gets up to the bigger vehicles,  
16 that is over 25 tons gross vehicle weight, in 1957 the  
17 average revenue would be 4.9 cents.

18 Q. Now, I think we can agree that the roads  
19 that would have to be used for hauling grain in western  
20 Canada would not be able to withstand regular movements  
21 of trucks of that size, that is over 25 tons gross  
22 weight. You would agree with that?

23 MR. MONTAGUE: I am not too familiar with  
24 weight limits, but I would go along with your argument.

25 MR. MAGEE: We presume that they will with-  
26 stand the weight that the provincial authorities authorize  
27 be put on the highways.

28 Q. For instance, those secondary roads in  
29 Saskatchewan, can they carry more than 50,000 pounds?

30 MR. MAGEE: I don't know what the specific







1 weight limit is there.

2  
3 Q. Would you like to look them up, for  
4 Saskatchewan? These are secondary roads. Maybe  
5 Mr. Montague, who has had the advantage of driving on  
6 some of those gravel roads up there, would be able to  
7 answer that.

8 MR. HUME: Mr. Chairman, in Saskatchewan --  
9 and there is no distinction in this document I have  
10 between a first and secondary road -- a six-wheeled  
11 tractor tandem, semi with five axles, the weight limit  
12 is 54,000 pounds, gross weight limit, 64,000 pounds  
13 in the winter time on the trans-Canada highway portion  
14 of first-class road.

15 MR. SINCLAIR: In view of the fact, Mr.  
16 Montague, that costs are 90 per cent variable and that  
17 the trucking industry in 1957 was not unduly profitable,  
18 I wonder if the figures from the study of Mr. Wagdin  
19 wouldn't permit you to estimate for the assistance of  
20 the Commission the variable cost of moving grain on  
21 secondary roads in Manitoba or Saskatchewan into  
22 main line gathering points?

23 MR. MONTAGUE: Well, I don't suppose you  
24 really expect me to make that calculation now, as  
25 undoubtedly it would be a very complicated and difficult  
26 calculation to make. I could point out one thing, in  
27 reviewing the revenue per ton mile which you have  
28 mentioned in the Wagdin study, that I think that the  
29 revenue per ton mile figures include for the trucking  
30 industry their pickup and delivery costs and other items







1 which are also variable. In the handling of bulk  
2 commodities the revenue per ton mile may be lower.

3  
4 MR. MAGEE: It is lower.

5 MR. MONTAGUE: As Mr. Magee says, it is lower.  
6 So that I would hesitate to take those figures from  
7 the Wagdin study as an indication of what might or might  
8 not be the position for trucks in terms of what would  
9 be acceptable for a truck in terms of handling grain.

10 Q. You want to consider it a little further,  
11 and while you are doing it you may also consider the  
12 fact that the figures I gave reflected the balanced  
13 movement of the trucking industry rather than the pre-  
14 dominantly one-way haul that would be involved in moving  
15 grain, and I wonder if, taking all those factors -- I  
16 don't expect you to do it sitting there -- you could  
17 assist the Commission by advising them on Monday as to  
18 what would be your best estimate of, say, a 100-mile  
19 haul, 150-mile haul, and a 200-mile haul, with a  
20 20-ton gross weight vehicle and a 25-ton gross  
21 weight vehicle?

22 MR. HUME: Well, on Monday, or as soon as  
23 possible, in view of the homework you have been giving  
24 us starting at ten o'clock this morning.

25 MR. MAGEE: We have a slightly different  
26 position than perhaps Mr. Sinclair has.

27 MR. SINCLAIR: He has a corporal's guard.

28 MR. MONTAGUE: I should say that any work I  
29 do is simply on a contractual basis with Mr. Magee's  
30 Association, and I would hesitate to undertake to





1 produce such an answer unless Mr. Magee wanted to  
2 instruct us to do the very extensive work that was  
3 required. So therefore I don't want to say that  
4 I will produce it on Monday.

5 Q. If Mr. Magee instructs you to do it, you  
6 will undertake it, and if he doesn't perhaps Mr. Magee  
7 has a big staff of costing people and they have ways  
8 and means of developing that themselves?

9 THE CHAIRMAN: In conjunction with the C.P.R.

10 MR. SINCLAIR: I don't know if the C.P.R.  
11 can help them in that regard, because I understand that  
12 the whole department has been engaged on the requests  
13 for information, and I would hope that further require-  
14 ment wouldn't be put upon them.

15 MR. HUME: I am not trying to be facetious,  
16 but Mr. Montague and I are catching the plane at five  
17 o'clock, we have certain commitments over the week end.  
18 We will read the transcript, and it may not be ready,  
19 but we will do the best we can.

20 MR. SINCLAIR: I can also understand Mr.  
21 Montague's position that he will have to have instruc-  
22 tions, but I did raise the point because I thought it  
23 was necessary to have that information before the  
24 Commission, if it could be available or secured.

25 MR. MONTAGUE: I did mention the study that  
26 was prepared by the United States Agricultural Depart-  
27 ment, and I believe they did attempt to develop some  
28 cost picture of what trucks could do in the United  
29 States.  
30







1  
2 MR. SINCLAIR: Q. It is quite a different  
3 situation there. There are factors; there are different  
4 weather conditions, for instance.

5 MR. MONTAGUE: I don't think this has  
6 particularly to do with the movement of grain from  
7 points in Minnesota, North Dakota and, I think, the  
8 Montanas, some of which moved by truck. I think  
9 it had regard to conditions which could be comparable,  
10 and there would certainly be differences. But it  
11 would probably be of more assistance than anything we  
12 could provide at the present time.

13 Q. And the highways are different. You  
14 have knowledge of the difference of the highways, the  
15 Montanas; for example, from Kirk Robert to Moose Jaw.  
16 Have you ever ridden on that highway?

17 MR. MONTAGUE: I have an experience of high-  
18 ways in the west, and the best I can say at this time  
19 is that they are certainly improving.

20 Q. I think that the importance you put on  
21 the word "improving" answers the problem that that  
22 brings out.

23 Now, in this regard I promised to put together  
24 certain material the other day in regard to Mr. Hume's  
25 cross-examination of Mr. Paul, and certain questions I  
26 would then direct out of that to you, Mr. Magee, on  
27 policy, and to Mr. Montague on account of the special  
28 work he said was undertaken.



1  
2 Now, so that I can put the matter in better focus,  
3 I turn first to Mr. Hume's examination of Mr. Paul,  
4 and the Commission will recall that Mr. Paul was the  
5 spokesman for the Canadian Manufacturers Association  
6 and a man who, I think the evidence said, spent all his  
7 life, some 40 years, in transportation.

8 Mr. Hume, asking questions at page 9892 of volume  
9 54, then said this:

10 "should the railways alone be the instrument of  
11 receiving the benefit, or should it be paid in  
12 such a way that the trucks could haul grain, if  
13 they are able to do so, and as they do in the  
14 United States."

15 And Mr. Paul didn't quite come up to the  
16 answer to that.

17 MR. HUME: He wouldn't agree with me at  
18 all on that.

19 MR. SINCLAIR: He didn't agree until we come  
20 away over on to the next page, and we get this question  
21 from Mr. Hume to Mr. Paul:

22 "So that if the rate per bushel or per 100 weight  
23 arose in Canada by one means or another, like it  
24 is in ~~the~~ United States, the railways should be  
25 the only persons to receive whatever payment is  
26 made, and the trucking industry should not have  
27 an opportunity of hauling it, except domestically,  
28 if they have an opportunity -- and I am speaking  
29 only of the grain to export points -- the present  
30 Crow's Nest statutory rates?"

Mr. Paul's answer:





1  
2 "Well, there would be some justification, I think,  
3 in applying it to the trucks if the truckers  
4 accepted the same obligations as the railways are  
5 under."

6 This is the point, Mr. Hume, that you felt  
7 was not in your cross-examination.

8 Q. It was also covered by myself, Mr. Magee,  
9 in the cross-examination I did of Mr. Paul, and this  
10 is found at page 9946 of volume 54.

11 MR. HUME: I don't recall my making any  
12 comment about what was in was not in the cross-examin-  
13 ation; what I said in answer to you the other day was  
14 that I had given no undertakings with respect to leaving  
15 trucks at terminals, and so on. I recall very well  
16 that Mr. Paul wouldn't agree with me, and I wasn't  
17 until you started to cross-examine him that he began  
18 to agree with me.

19 MR. SINCLAIR: I thought he had agreed with  
20 you in the quotes I have just read?

21 MR. HUME: It is on the record.

22 MR. SINCLAIR: I undertook to do this, and  
23 I will continue, with the permission of the Commission,  
24 at page 9946: In answer to a question of mine, Mr. Paul  
25 said:

26 "I would say that as a condition the trucks would  
27 have to submit to the same conditions as the rails  
28 in the handling of the traffic."

29 And further, my question:

30 "As an experienced transportation man, would it be  
your position that the railways be relieved of







1  
2 "these special obligations in regard to the handling  
3 of grain?"

4 And Mr. Paul's answer:

5 "No, I would not say so. These special regulations  
6 may be necessary in the handling of the grain,  
7 but I would say that, if the truckers want to  
8 participate in it, they will have to meet these  
9 same conditions.

10 Q. And that would include free time at  
11 terminals, having available equipment and all these  
12 matters?

13 A. Whatever is involved in the movement of  
14 the grain."

15 Then, further at page 9949, Mr. Paul said:  
16 "That if the trucks want to participate in the  
17 business, they have to meet the same conditions  
18 as the railroads."

19 Then, on the following page, page 9950:

20 "Q. And they would have to carry both short haul  
21 and long haul traffic?

22 A. Conditions all similar."

23 MR. HUME: I agree that was all in the  
24 cross-examination.

25 MR. SINCLAIR: Q. Now, Mr. Magee, my  
26 question to you is this, on behalf of Canadian Trucking  
27 Associations; do you agree with that evidence of  
28 Mr. Paul?

29 MR. MONTAGUE: We have tried in previous  
30 examination during the week to give the reasons why we  
don't agree with that proposition, but the point which





1  
2 I think will be the determinant in any business that  
3 trucking firms do with regard to these commodities,  
4 will be that if they cannot meet the obligations which  
5 the shippers choose to impose upon them, then they will  
6 not get the traffic.

7 MR. SINCLAIR: Q. It is not a question of  
8 the obligations the shippers impose upon them, it is a  
9 question of meeting the demand for the movement of grain  
10 as now delineated in federal statutes. It is not a  
11 matter of shippers, it is a matter of law, so that  
12 what I am asking, Mr. Magee, is a policy question and  
13 I will come to you to deal with what Mr. Hume said in  
14 a minute. It is a policy question. Would the  
15 Canadian Trucking Associations be prepared to accept  
16 for the movement of grain to export positions in western  
17 Canada the same obligations as placed on the railways  
18 for the movement of that traffic?

19 MR. MONTAGUE: You directed your question  
20 specifically to Mr. Magee, did you?

21 MR. SINCLAIR: Q. Yes.

22 MR. MAGEE: We don't say the obligations  
23 that are upon the railways at the present time, Mr.  
24 Sinclair, should be applied to the trucking industry in  
25 that regard. If obligations upon the railways were  
26 the determinant of whether or not trucks would be  
27 permitted to compete for traffic, we would have never  
28 got the trucking industry started in Canada.

29 Q. Let me see what obligations they would  
30 not be prepared to accept. Would they be prepared  
to move both short haul and long haul traffic at the







1  
2 direction of the Wheat Board?

3 MR. MAGEE: Well, I can't answer in the  
4 future for individual trucking firms. Suppose I said  
5 "Yes" to all of your questions and an individual trucking  
6 firm couldn't do it; that is the impracticability of  
7 my trying to answer that type of question.

8 Q. You could answer this; would the trucking  
9 firms be prepared to haul long haul traffic when it would  
10 be more economical for them, in view of their distribution  
11 of equipment, to haul short haul traffic, and that is  
12 an obligation that is quite often put on the railways,  
13 as you know.

14 THE CHAIRMAN: We will have the answer to that  
15 question on Monday morning.

16 ---Adjournment.  
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ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held  
in the CourtRoom, Board of  
Transport Commissioners Offices,  
Ottawa, Ontario, on the 9th day  
of May, 1960.

COMMISSION

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Ottawa, Ontario,  
Monday,  
May 9, 1960.

---On commencing at 10.00 p.m.

THE CHAIRMAN: Order, please.

CROSS-EXAMINATION BY MR. SINCLAIR (cont'd):

Q. Just before I go along with the point I was discussing with you at the conclusion of the proceedings on Friday last, there was this question I put at page 11431, volume 64, and the question was:

"On the anticipation of a causeway joining Newfoundland with the rest of Canada, and the little job I want you to assist the Commission on, if you will, on this joint board -- if a trucker was going to operate from Newfoundland over the causeway across Canada to Vancouver, going through all the ten provinces of Canada, would you please tell me now, in the light of you saying it is in the public interest to have consistency, what are the mathematical permutations and computations of the number of changes that could take place in that board?"

I was wondering if Mr. Montague had had a chance over the weekend to do his sums.

MR. MONTAGUE: I told you the limitations that I had imposed on me because I did not know the exact number on the board, but presuming there were ten five-man boards and you chose a ten-man board to be selected from these ten five-men boards, I worked out there would be some 11 million permutations of that ten-man board.





1  
2 Q. Now, just at the conclusion the question  
3 I had put to you, Mr. Magee, was -- we were dealing with  
4 the movement of grain and grain products to export  
5 positions by trucks:

6 "Q. You could answer this; would the trucking firms  
7 be prepared to haul long haul traffic when it would  
8 be more economical for them, in view of their  
9 distribution of equipment, to haul short haul  
10 traffic, and that is an obligation that is quite  
11 often put on the railways, as you know."

12 Then the Chairman said:

13 "We will have the answer to that question on  
14 Monday morning."

15 What is the answer to that question, Mr. Magee?

16 MR. MAGEE: Well, Mr. Sinclair, I think the  
17 answer is similar to the answer I gave to another question  
18 that you asked me relating to this matter. I cannot  
19 speak for trucking firms that would be hauling this  
20 traffic. If there were provisions that applied to it in  
21 regard to subsidy, it might be possible for them to haul  
22 it. This is a matter that the regulatory authority,  
23 whatever authority it might be, is going to have to  
24 determine whether your obligations will stay the same  
25 and what obligations we would have to carry out.

26 Q. Would it be your position that if the  
27 trucks were to participate in this traffic that the obli-  
28 gations would be imposed by the same regulatory tribunal  
29 as imposed the obligations on the railways?

30 MR. MAGEE: Well, we do not know that either,  
Mr. Sinclair -- possibly not.







1  
2 Q. Well, for instance, what about intra move-  
3 ments of grain in Alberta that are not controlled in any  
4 way at the present time and there is no control over  
5 entry, no control over exit, no control over the rates  
6 at all and it became necessary, for instance, that some  
7 number 2 wheat had to move to Vancouver and all that  
8 equipment had to be shifted.

9 MR. HUME: That would not be intra if it was  
10 going to Vancouver.

11 Q. Just a minute, don't be so anxious --  
12 and it was necessary, therefore, to move this down into  
13 Calgary and Edmonton so that it would move through there  
14 by rail. Now, would you have control over trucking --  
15 the trucks to move that into the gathering system to the  
16 main rail points to Vancouver, who would have that  
17 authority?

18 MR. MAGEE: I am not sure who would have the  
19 authority, Mr. Sinclair, but if there were obligations  
20 of the truckers carrying that out, whoever might set the  
21 obligations obviously would not be hauling the traffic.

22 Q. There would be no federal authority that  
23 can exercise that jurisdiction, is there?

24 MR. MAGEE: Over purely intra -- well, that is  
25 a bit of a legal problem possibly. I was thinking of the  
26 stoppage of the trucks that were hauling grain from the  
27 Creston area, from British Columbia to Vancouver,  
28 about the actual stoppage of the trucks and the fact that  
29 the Canadian Wheat Board told those truckers that  
30 they could not haul wheat and did that because the trucks  
had to dip down into the United States for a 60 or 70





1  
2 mile jaunt over American highways. The Wheat Board said  
3 that this constituted an export movement and they refused  
4 to issue any further permits for the movement until some  
5 action was taken.

6 Q. But they did say if they moved through  
7 British Columbia -- this was the traffic from the  
8 U. G. G. elevator at Creston to Vancouver and feed grains  
9 that you are talking about?

10 MR. MAGEE: Yes.

11 Q. And the truckers did move that traffic  
12 to Vancouver as long as they kept on Canadian highways  
13 so the Wheat Board would not be involved in questions of  
14 export traffic moving out of the Creston elevator and the  
15 fact it would be on the quotas, is that not the story?

16 MR. MAGEE: Yes.

17 Q. But that is not controlling movements  
18 intra-provincially, that is controlling movement extra-  
19 provincially.

20 MR. MAGEE: Yes.

21 Q. Now, we will go back to how would the  
22 federal government be able to control the intra truck  
23 movement that I gave you in Alberta?

24 MR. MAGEE: I suppose it would be like the  
25 experience of the truckers involved in the feed grain  
26 subsidy, this federal subsidy. They are intra-provincial  
27 truckers but if they do not comply with whatever it gives  
28 there that is set out in the order in council, the shippers  
29 cannot claim for the subsidy for having moved that product  
30 by truck.

Q. I recognize you take that answer on advice





1  
2 of counsel.

3 MR. MAGEE: He gave the general advice but the  
4 feed subsidy came to mind.

5 Q. Well, all the shipper does is take his  
6 receipt for the movement of the grain, the feed grain,  
7 and the shipper collects the subsidy on that movement  
8 himself. There is no requirement as to how it moves  
9 at all or at what rate it moves, it moves on the normal  
10 rate and the shipper or receiver, the person who pays the  
11 freight gets a direct payment. That is different from  
12 the situation that would exist here so there is no  
13 parallel in the system at all.

14 MR. MAGEE: Why is it different?

15 Q. As I understand it in this case, we  
16 were talking about whether the rate paid by the farmer  
17 was going to remain the same and the difference between  
18 that and a just and reasonable rate would be covered by  
19 assistance.

20 MR. MAGEE: Yes, to the farmer.

21 Q. Directly to the farmer. In other words,  
22 your view is that the farmer would pay one rate to the  
23 transportation agency and the balance of that individual  
24 rate he would collect from the regulatory tribunal, the  
25 farmer would, would he?

26 MR. HUME: I do not think we have suggested that  
27 in our brief.

28 MR. SINCLAIR: Q. Well, how would it be  
29 different?

30 MR. MONTAGUE: Our suggestion has been that the  
Wheat Board or its agents from the milling companies







1  
2 concerned are the people who would be doing the shipping.  
3 As I understand, shipments by individual farmers are  
4 relatively rare in western Canada today.

5 Q. Well, let me give you the movement of  
6 flax or rye in Alberta to Calgary for further movement  
7 to Vancouver by rail as brought in by a farmer and put  
8 into one of the grain handling organizations' elevators  
9 and stored there and it remains under the shippers' quota.  
10 How would they handle it? What is the Wheat Board  
going to do with it?

11 MR. MONTAGUE: If the elevator company buys  
12 from him then it is their business. It is my understand-  
13 ing there are relatively few shipments by the farmer  
14 himself in which the farmer himself actually obtained the  
15 total but in this case the grain being actually here,  
16 his agent would be the recipient of the subsidy.

17 Q. They would collect on behalf of the  
18 farmer and pay that to the trucking organization, is that  
it?

19 MR. MONTAGUE: Well, the trucking organization  
20 would receive whatever rate it paid for the movement  
21 if they said they would carry it for so and so cents,  
22 they would receive it.

23 Q. But the farmer only pays the rate as set  
24 out in the Railway Act and it is the difference between  
25 that rate and the rate that moved the traffic that would  
be subsidized?

26 MR. MONTAGUE: That is what we are proposing.

27 Q. And it would be paid by the shipper or  
28 his agent receiving the money and it would be received  
29  
30





1  
2 on behalf of the carrier and paid by the shipper to the  
3 carrier, is that your position?

4 MR. MONTAGUE: That is our position.

5 Q. And if the shipper, the Wheat Board on  
6 wheat or anything under their control decided that No. 2  
7 wheat had to move, they would make that a condition that  
8 no subsidy would be paid unless all trucks answered the  
9 call of the Wheat Board for making equipment available.  
Is that your proposition?

10 MR. MONTAGUE: Our proposition is, surely this  
11 is up to the Wheat Board or the shipper concerned; if he  
12 chooses to put this condition on the movement he will  
13 put it on.

14 Q. If he puts that on how can he enforce it,  
15 that is my question?

16 MR. MONTAGUE: I would think he would enforce  
17 it simply by not giving the trucks the traffic.

18 Q. None of the trucks?

19 MR. MONTAGUE: That is up to the shipper.

20 Q. So the condition would be stringent,  
any one trucker not complying, all truckers would lose.

21 MR. MAGEE: I do not want to leave the idea  
22 that we are complying with the conditions of the railways  
23 -- I may have misunderstood you there but I did not say  
24 at any time that the trucking industry would be in a  
25 position to comply with the obligations that exist at  
26 the present time in respect to railway movement of this  
traffic.

27 Q. Quite frankly it would be impossible for  
28 them to comply with those obligations. For instance,  
29  
30







1  
2 the obligation of leaving their equipment at the terminal  
3 elevator until such time as the terminal elevator can  
4 unload it. That is one example. Another example is  
5 that they will make available at the spout cars and they  
6 will run through because the grade does not fit the  
7 vehicle, they would have to keep equipment around all the  
8 time and sometimes their trailers would be kept around  
9 for 93 days. That would be impossible for a trucking  
company, would it not?

10 MR. MAGEE: Yes, that would be quite imprac-  
11 tical.

12 Q. So in point of fact the trucking industry  
13 just could not live with the obligations that are now  
14 imposed on the railways for the movement of this western  
15 grain traffic. It is a practical impossibility because  
16 it does not fit in with their industry.

17 MR. MAGEE: That is certainly true under the  
18 obligations.

19 Q. Now, Mr. Montague said he had made a special  
20 study of the situation in the United States; is the  
21 majority of the grain shipped under a federal marketing  
agency in the United States?

22 MR. MONTAGUE: I could not get you the per-  
23 centages but the C. C. C. has a very high percentage of  
the grain moved.

24 Q. Is the percentage of that as high as the  
25 percentage moved by the Wheat Board in Canada?

26 MR. MONTAGUE: No, it would not be.

27 Q. Nowhere near it?

28 MR. MONTAGUE: If you want me to check the  
29 figures, I will, but it is certainly not as large a  
30





1  
2 proportion as our Wheat Board.

3 Q. And in the United States, is grain free  
4 of demurrage charges at the export points?

5 MR. MONTAGUE: I cannot answer that.

6 Q. Would you check on that so the Commission  
7 will know that it is subject to demurrage in the  
8 United States and not in Canada.

9 THE CHAIRMAN: I think we have heard that  
10 before.

11 MR. HUME: If you say so, we will agree with  
12 that because your information is no doubt correct.

13 MR. SINCLAIR: I do not want to give  
14 evidence -- The Commission has indicated they know the  
15 facts.

16 THE CHAIRMAN: We know.

17 MR. SINCLAIR: Q. In the United States are  
18 railroads distributing cars as required by a federal  
19 agency in relation to the grain quotas in various  
20 sections of the country?

21 MR. MONTAGUE: I cannot answer that.

22 Q. In your study of the grain movement in  
23 the United States you did not go into that?

24 MR. MONTAGUE: I was instructed to study the  
25 movement of truck traffic.

26 Q. I am sure the Commission has sources for  
27 that information if they desire it. In the United  
28 States are transportation agencies required to make  
29 available the equipment to move grain and to interchange  
30 equipment to move grain at the direction of any regul-  
atory authority?





1  
2 MR. MONTAGUE: There is no such obligation  
3 upon the truck movement of grain.

4 Q. In the United States is there any provision  
5 which requires a transportation company under a regul-  
6 atory authority to turn over all facilities within its  
7 power for the carriage of grain?

8 MR. MONTAGUE: Again, there is no such oblig-  
9 ation upon the truck movement of grain in the United  
10 States.

11 Q. The Commission will recognize in both  
12 those points that those are two of the obligations on  
13 the railway companies in this country. You knew that?

14 MR. MONTAGUE: I realize that.

15 Q. Now, Mr. Magee, perhaps we could take a  
16 look at some other points here. I think your evidence  
17 before this Commission has dealt with this in some  
18 other parts, but just to put it together, it was your  
19 evidence, I think, I am not certain that it went this  
20 far but I will put in all the provinces, that inter-  
21 provincial truck rates are completely devoid of regul-  
22 ation in Ontario, Alberta, New Brunswick and Prince  
23 Edward Island, is that correct?

24 MR. MAGEE: Yes, I believe in New Brunswick  
25 the rates have to be filed but there is no enforcement  
26 of rate regulation there.

27 Q. And in Manitoba, Saskatchewan, Nova  
28 Scotia, British Columbia and Quebec there is some control  
29 over rates?

30 MR. MAGEE: Yes. I used the four provinces  
exclusive of Nova Scotia -- there may be also some --







1  
2 Q. Well, they file rates in Nova Scotia,  
3 do they not?

4 MR. MAGEE: Yes.

5 Q. But the effect of control in each of these  
6 provinces depends upon the effectiveness of the policing,  
7 that is right?

8 MR. MAGEE: Yes, that is right.

9 Q. And there is a great variety of policing,  
10 for instance, I take it that in Quebec policing is  
11 fairly strong. In other words, truckers and shippers  
12 have been fined and action taken against them for non-  
compliance with rates?

13 MR. MAGEE: Yes.

14 Q. They make deals below the prescribed  
15 rates?

16 MR. MAGEE: I understand so.  
17  
18  
19

20 (Page 11499 follows)  
21  
22  
23  
24  
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26  
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30





1  
2 Q. And a similar situation, at least  
3 on one occasion, has occurred in British Columbia.

4 MR. MAGEE: Yes.

5 Q. But in Manitoba or Saskatchewan where  
6 there are prescribed rates, do you know of any cases  
7 where truckers or shippers have been involved in proceed-  
8 ings regarding breach of prescribed rate provisions of  
9 the statute or regulations in those provinces?

10 MR. MAGEE: I haven't heard of any  
11 recent instances of that, Mr. Sinclair.

12 Q. Have you heard of any that were not  
13 recent?

14 MR. MAGEE: Well, I can't recall off-  
15 hand. I would have to go back a little while.

16 Q. Well, for example, Mr. Magee, you,  
17 of course, knew that out in Manitoba there is a pre-  
18 scribed rate, for example, on the movement of cream  
19 into creameries.

20 MR. MAGEE: Yes.

21 Q. And it was a usual thing for the  
22 trucker to put a quarter in the bottom of the cream  
23 can to keep the farmer happy.

24 MR. MAGEE: Yes. I think you made that  
25 statement at the Turgeon Commission eleven years ago,  
26 and it just came back to me.

27 THE CHAIRMAN: Was that a matter of  
28 evidence then, Mr. Sinclair?

29 MR. SINCLAIR: No, it wasn't a matter  
30 of evidence, Mr. Chairman. It was a matter that was







1  
2 well known to the farming community in western Canada,  
3 and well known to the board out there, and there was  
4 substantial evidence before the board out there and  
5 no action was taken by the Regulatory Commission, and,  
6 as far as I know, no action has been taken by the  
7 Regulatory Commission to enforce these rates by fines,  
8 and if Mr. Magee had any examples I am sure he would  
9 have brought them to our attention.

10 Q. Now, Mr. Magee --

11 THE CHAIRMAN: There was no information  
12 laid by the railways at all?

13 MR. SINCLAIR: I don't know how the  
14 railways could lay an information.

15 THE CHAIRMAN: If there was a breach  
16 of the statute.

17 MR. SINCLAIR: Yes, but what are we  
18 going to do to get the proof of the documents?

19 MR. HUME: Canadian Pacific could lay  
20 a charge and the Crown could take action.

21 MR. SINCLAIR: Now, with your background,  
22 Mr. Chairman, you know what flows when a person files  
23 an information, and there are some difficulties of  
24 establishing proof, and Canadian Pacific is just a  
25 little gun-shy when it hasn't got proof, because they  
26 recognize they are not judges of proof.

27 Q. Now, Mr. Magee, competitive rate  
28 pricing and agreed charge pricing of the railways  
29 has presented a major problem to the trucking industry  
30 in Canada.





1  
2 MR. MAGEE: Yes, it is a problem, Mr. Sinclair.

3 Q. You always like to take the degree out  
4 of it. You wouldn't say it was a major problem of the  
5 trucking industry. If it isn't, I would be glad to  
6 hear it, and the Commission, too.

7 MR. MAGEE: It is a serious problem.

8 Q. And the amendments you propose to the  
9 Railway Act and to the Transport Act in respect of compe-  
10 titive rates and agreed charges is meant to deal with  
11 this serious problem to the trucking industry that you  
12 present.

13 MR. MAGEE: Yes, they are meant to safeguard  
14 preservation of competition, Mr. Sinclair.

15 Q. Now, we will just take a look at that.  
16 That is the only reason they are there, to safeguard  
17 the competition.

18 MR. MAGEE: Yes. We are not asking for restric-  
19 tion on your ability to make competitive rates.

20 Q. The only reason that you have proposed  
21 these amendments is to safeguard the competition, for  
22 no other reason.

23 MR. MAGEE: Yes, and - well, to add to it -  
24 it is really part of the same reason - to prevent monopol-  
25 istic rate practices from developing.

26 Q. Now, under the amendments you propose  
27 to the Railway Act and to the Transport Act on competi-  
28 tive rates and agreed charges, Mr. Magee, they would  
29 enable the trucking industry to complain about traffic  
30 moving at a competitive rate or





1  
2 an agreed charge rate interprovincially as well as  
3 extraprovincially, would they not.

4 MR. MAGEE: Yes.

5 Q. For example, take Ontario or  
6 Alberta as an example. If your proposed amendments  
7 went in and all your legislative amendments went in,  
8 a trucker operating purely intraprovincially in those  
9 provinces could charge what he would, whether the  
10 rate was a cut rate, was a non-compensatory  
11 rate and was meant to force the shipper to build or  
12 make his facilities available only to highway vehicles,  
13 that there was a deal or a scheme to get him to take  
14 it off rail, so he enters into a scheme of rate-cutting,  
15 which is away below the trucker's costs.

16 MR. MAGEE: The trucker --

17 Q. Yes.

18 MR. MAGEE: He is not going to be  
19 able to maintain his rates below costs for long; he  
20 is going to be out of business, before even the  
21 regulatory board gets around to it.

22 Q. He is going to put it in for a  
23 year, and there is no compunction upon him to  
24 fix rates that are compensatory or profitable or  
25 anything else. Tell me, who does the railway complain  
26 to about this situation?

27 MR. MAGEE: Well, in regard to purely  
28 intraprovincial regulation, we have expressed the  
29 hope, Mr. Sinclair - it may seem a fond hope - that  
30 if we can get the federal regulatory picture







1  
2 revised and improved, then that will set a standard  
3 which the provinces will follow.

4 Q. Yes, but as of now and in the  
5 light of any proposals, legislation before either  
6 Ontario or Alberta - as of now, if your legislation  
7 was in effect and the situation existed in these  
8 provinces as it does today, who would the railways  
9 complain to?

10 MR. MAGEE: Well, in Ontario there  
11 is no one they could complain to.

12 Q. And in Alberta?

13 MR. MAGEE: No one in Alberta. But  
14 if the trucker turned around and complained about  
15 the comparable railway competitive rates, then that  
16 situation which you are referring to would be looked  
17 at by the board of Transport Commissioners, presumably  
18 under the part of Section 334 which says that the  
19 railway rates must not be lower than necessary to  
20 meet competition. So the trucker, even if he was  
21 intraprovincial, it wouldn't be a one-way street.

22 Q. I am surprised at you bringing  
23 that up, because it also provides in that section  
24 that the rail rate must be compensatory.

25 MR. MAGEE: I know that.

26 Q. And I have set you up in the  
27 situation where a trucker puts in a rate which  
28 was away below his costs and wouldn't be compensatory  
29 to the railway and there is nothing that the railway  
30 can do but let the traffic go and let the trucker





1  
2 establish a monopoly position with that shipper.

3 MR. MAGEE: Well, that is something  
4 that I may live to see, Mr. Sinclair, but I haven't  
5 seen it yet.

6 Q. You haven't seen it yet?

7 MR. MAGEE: No.

8 Q. Have you ever talked to any  
9 traffic officers of the railways concerning rate-  
10 cutting by the truckers?

11 MR. MAGEE: I have heard from them  
12 occasionally the the trucks cut rates. One traffic  
13 officer told me that if the trucker cuts rates,  
14 "we will keep on cutting, and you know who is going  
15 to survive".

16 Q. But there is a law which prevents  
17 the railways going below what is compensatory.

18 MR. MAGEE: That is what he told me.

19 Q. They can go to what is compensatory,  
20 and then they must stop by law.

21 MR. MAGEE: Well, you would complain  
22 in that case. The trucking industry has already once,  
23 since Section 334 was put in the Act, made a complaint,  
24 the first time in 1957, I think it was, and we were  
25 found to be not a party interested under the Railway Act,  
26 without the right of complaint, and it is true that  
27 on that occasion the board, on its own motion, made  
28 an investigation.

29 Q. And they found that your complaint  
30 about the rates was not justified.







1 MR. MAGEE: That was the decision of the Board.

2 A. And the Board has an obligation to main-  
3 tain rates which are reasonable, and they have shown on  
4 numerous occasions that they will act on their own  
5 motion.

6 MR. MAGEE: Yes. But it comes back, Mr.  
7 Sinclair, to the point made the other day, that the  
8 Board normally acts on a complaint. I am referring,  
9 for example, to a statement that was made in that  
10 matter before the Standing Committee on Railways,  
11 Canals and Telegraph Lines on Tuesday, April 14, 1959,  
12 by Mr. Knowles, one of the commissioners of the Board,  
13 where he says at page 40 of No. 1 of the Minutes  
14 of Proceedings and Evidence:

15 "Ordinarily, the railways file these competi-  
16 tive rates, and unless somebody complains about them  
17 there is no investigation of them?

18 Q. Do you know, Mr. Magee, that the  
19 provinces, some of the counsel who are sitting here and some  
20 who are sitting elsewhere, in this room did complain  
21 about the level of competitive rates of the railways,  
22 and the same Commissioner Knowles was designated by  
23 Chief Commissioner Kearney to make full investigation into  
24 the railway competitive rate practices and the control  
25 exercised over them and report back, and it was the  
26 decision of the Board that the practices being followed  
27 by the railways in regard to these rates were under  
28 proper control, and he found that the rates were being  
29  
30





1  
2 properly handled and were compensatory.

3 MR. MAGEE: I knew there was an investi-  
4 gation being conducted. I have not said that the  
5 board acts only on complaints, and the quotation that  
6 I have just read of Mr. Knowles said "Ordinarily".  
7 I was not trying to leave the impression that the  
8 board never acted on its own initiative.

9 Q. Can you direct to the commission  
10 any inquiry in Manitoba or Saskatchewan, any similar  
11 action on rates, as to the level of compensatory  
12 rates, any similar action being taken in Manitoba,  
13 Saskatchewan, as to the level of trucking rates?

14 MR. MAGEE: Could we do it or could  
15 the railways do it?

16 Q. Could you draw to this commission  
17 any inquiry being made on its own motion by the regulatory  
18 commission into the level of trucking rates in  
19 Manitoba or Saskatchewan.

20 MR. MAGEE: I don't know of any investigation  
21 made of trucking rates. I know there have been  
22 proceedings when the truckers wanted to raise their  
23 rates.

24 Q. Mr. Magee, you say that - I am  
25 going to use your language --

26 MR. HUME: What page, please?

27 MR. SINCLAIR: I haven't got the  
28 page, Mr. Hume, I am sorry. This will be quite clear  
29 to the witness, I think.

30 Q. I am quoting your language, in





1  
2 regard to competitive rates, that the truckers would  
3 be enabled to apply to the board for disallowance of  
4 the trucking rate if the trucker considered that the  
5 competitive rate had subjected him to an undue or  
6 unreasonable prejudice or disadvantage. It is  
7 section 7, paragraph 19 of your submission. It is  
8 your amendment proposed to this commission and the  
9 language "that a competitive rate has subjected him  
10 to an undue or unreasonable prejudice or disadvantage".  
11 Would you assist the commission by defining what you  
12 have in mind as an "undue or unreasonable prejudice  
13 or disadvantage"?

14 MR. MAGEE: It would appear to be a case  
15 of the railways perhaps going below cost to deliberately  
16 put the truckers out of business.

17 Q. That is the only kind of thing  
18 you have in mind?

19 MR. MAGEE: There may be other situations.

20 Q. You see, in regard to that, if the  
21 railways went below cost, the board is now charged  
22 by the statute of seeing that does not occur.

23 MR. MAGEE: Yes.

24 Q. So why should the trucker decide  
25 to bring upon himself the statutory obligations of the  
26 Board of Transport Commissioners?

27 MR. MAGEE: Well, he is a person affected  
28 even though he is affected as a competitor; and going  
29 back again to Mr. Knowles' statement, which I understand  
30







1 accurately reflects the procedures of the Board, it  
2 could be that if the truckers did not object the railways  
3 might have a rate in effect which is not in conformity  
4 with the law, and I don't think that the railways would  
5 want to do that.

6  
7 Q. The railways have told the commission  
8 that if that is brought to their attention by anyone  
9 they will take action to put it on a proper basis. They  
10 are not perfect, but they say if there is one, bring  
11 it to our attention. This is evidence that has been  
12 given in other proceedings and reiterated in these  
13 proceedings to this commission. What more is required?  
14 Why should the trucker be the guardian of the Board  
15 carrying out its statutory duty or the railways carrying  
16 out their statutory duty?

17 MR. HUME: With respect, Mr. Chairman,  
18 that isn't what the amendment requires or says, and  
19 I don't think this is a fair question to put. All the  
20 section does is give the truckers a right as a party  
21 to be heard, and it does not put any obligation on the  
22 trucker to police or take any action. It is merely to  
23 give the trucking associations a right to be a party  
24 to appear before the Board, which they do not now have.

25 MR. SINCLAIR: I don't know how my  
26 friend is so acute on this legislation. It says:

27 "If a motor vehicle operator considers  
28 that a competitive rate has subjected him to an undue,  
29 or unreasonable prejudice or disadvantage, an association  
30 of motor vehicle operators on his behalf may apply to the





1  
2 Board for an order disallowing the rates, and the  
3 application shall, on the request of any party to  
4 the application, be heard and determined in open  
5 court."

6 Now, that is quite different to what my  
7 friend is talking about at the moment.

8 COMMISSIONER ANSCOMB: What section is that?

9 MR. SINCLAIR: It is their amendment, at  
10 volume 59 at page 10660.

11 MR. HUME: That is now in the Act.

12 MR. SINCLAIR: That is not now in the Act.

13 MR. HUME: I am sorry, I am reading the  
14 wrong place.

15 THE CHAIRMAN: He wants to get it in the  
16 Act.

17 MR. SINCLAIR: Oh, yes, and I now put the  
18 question to the witness which was objected to my friend,  
19 and in the light of that ask the commission whether  
20 he should or should not answer.

21 MR. MAGEE: I am willing to answer it.

22 THE CHAIRMAN: The answer can be given .

23 MR. MAGEE: Why should the trucker have the  
24 right to do that?

25 Q. No, why should the trucker be the  
26 guardian of the Board of Transport Commissioners  
27 carrying out their statutory duty in respect of  
28 competitive rates?

29 MR. MAGEE: I don't think we conceive our-  
30 selves as being the guardian of these matters, Mr.







1 Sinclair; and the fact remains that by some rate  
2 practices of the railways -- and it has the power to  
3 do it, and I have given a graphic description of how  
4 it was put to me regards to rates.  
5

6 Q. Suppose something happens that puts  
7 a truck operator out of business or very seriously  
8 damages his business, and what is done by the railways  
9 is not in conformity with the provisions of Section  
10 334 of the Railway Act, then in those circumstances,  
11 not only has the railway been in breach of its  
12 statutory obligation but also the Board of Transport  
13 Commissioners.

14 MR. MAGEE: But sometimes the Board does  
15 not get a chance to look at the statutory obligations  
16 unless a complaint is made.

17 Q. But it is only in the hypothetical case  
18 that the railways and the Board would be in breach of  
19 their statutory duty that you think you should come  
20 along; is that right?

21 MR. MAGEE: Yes. I don't see that any  
22 complaint by a truck operator or an association would  
23 have any chance whatever of succeeding, unless the  
24 statute was being breached. I want to say this, Mr.  
25 Sinclair, that just because a truck operator comes  
26 to Canadian Trucking Associations and says that some-  
27 thing unfair is being done by the railways in respect  
28 of rates, that does not mean that we should roll with  
29 the punches and say: "Now, that is fine; we will  
30 take that up and make a big fight of it and take it





1  
2 to the Board of Transport Commissioners and see what  
3 we can do about it".  
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11 (Page 11514 follows)  
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2 Q. And the same trucker that would be coming  
3 here would be free to put in backhaul rates on a single  
4 trip basis and intraprovincial movements and would be  
5 able to take all the advantages including that advantage  
6 that you so graphically described, Mr. Hume, and I think  
7 that is one advantage this Commission is interested in,  
8 and that is set out in section 9, page 2, your paragraph  
9 6, and you will require that that intimate relationship  
10 is one that is open to the truckers but not generally  
open to other transport agencies?

11 MR. MAGEE: That is paragraph ---?

12 Q. Page 9.2, your paragraph 6:

13 "These companies enjoy certain very real benefits  
14 from specialization and intimate relationship  
15 with the customers in their localities;...."

16 MR. MAGEE: Yes.

17 Q. And so that there is that intimate  
18 relationship that is extremely hard to control?

19 MR. MAGEE: Yes. All transportation agencies  
try to build those relationships.

20 Q. Well, I assure you, Mr. Magee, as you  
21 point out, that it takes a trucker to get into that  
22 relationship, because you are referring to it as a very  
real benefit and advantage.

23 MR. MAGEE: Yes.

24 Q. And that is so?

25 MR. MAGEE: Yes.

26 Q. Have you got any specific instances  
27 where there have been non-compensatory rates put into  
28 effect by the railway which were not caught by the  
29  
30







1  
2 railways, themselves, or the Board of Transport Commiss-  
3 ioners -- any specific ones that you can bring to the  
4 attention of the Commission?

5 MR. MAGEE: The only one we had views about,  
6 as an association, was on the western Canadian incentive  
7 rate case and, as has been pointed out, the Board did  
8 not agree with our views there.

9 Q. They found them to be compensatory?

10 MR. MAGEE: That is right. The railways,  
11 according to the Board, were conforming with the require-  
12 ments of the law.

13 THE CHAIRMAN: Mr. Magee, in this proposed  
14 amendment you restrict the right of application to an  
15 association of motor vehicle operators?

16 MR. MAGEE: Yes.

17 THE CHAIRMAN: That is, it is not open to the  
18 individual trucker. Why do you so request?

19 MR. MAGEE: The reason we do that is that we  
20 anticipated an argument that we have heard before in  
21 regard to this proposed type of amendment, and that is  
22 the "avalanche of appeals" argument, that if the act is  
23 amended in this way we are going to have hundreds of  
24 truckers lined up outside the Board of Transport Commiss-  
25 ioners in Ottawa waiting to make their appeal. We  
26 don't think that is correct. That is not the way it has  
27 worked in regard to section 334 to date. However, that  
28 is the only reason we put that in there, and a trucker  
29 could go and form, with other truckers, an association  
30 outside of our own group. Supposing the trucker came  
to us and said he wanted to make an appeal, and we studied





1  
2 the matter carefully, which we would certainly do, and  
3 our board of directors came to the conclusion there was  
4 not a sound case for an appeal, the trucker would be able,  
5 if he disagreed with that, to go and form an association  
6 and make the appeal.

7 THE CHAIRMAN: But that is the purpose of that?

8 MR. MAGEE: Yes; that is the only purpose of it.

9 MR. SINCLAIR: Q. And which can be very  
10 easily superseded in the way you have indicated to the  
11 Chairman?

12 MR. MAGEE: It can be, but in normal practice  
13 it is not.

14 Q. Well, they haven't made these appeals,  
15 so you don't know what the normal practice is?

16 MR. MAGEE: No, but they could have tried  
17 starting in 1951. Nobody tried in the trucking industry  
18 until 1957, and, again, they are referring to the right  
19 of appeal that now exists in the Transport Act in regard  
20 to agreed charges, and it has been there since 1955,  
21 and that is the appeal to the governor in council. I  
22 certainly don't think anybody can use the "avalanche of  
23 appeals" argument based on the way the trucking industry  
24 has treated that matter.

25 Q. I would suggest that merely indicates how  
26 closely the competitive rates and agreed charges are  
27 watched by the regulatory authorities and by the railways.

28 MR. MAGEE: That may be so, but something can  
29 happen, and the two railways are very powerful companies  
30 and can do things in regard to rates and all we suggest  
is that there be the safeguard there in case it happens.







1  
2 Q. Well, what you are trying to do I will  
3 argue at a later date. I want to make one point clear:  
4 Mr. Chairman of this Commission brought up the question  
5 of a Mr. Brown, and you and I had a little chat about  
6 which Mr. Brown we were talking about, and Mr. Chairman  
7 said that was the Mr. Brown who introduced the bill.

8 MR. MAGEE: Yes.

9 Q. That Mr. Brown is a member of the British  
10 Columbia Truckers Association?

11 MR. MAGEE: Quite right; I said that the other  
12 day.

13 Q. And he has also a substantial interest in  
14 trucking?

15 MR. MAGEE: Yes.

16 Q. Financial interest?

17 MR. MAGEE: Well, I understand he has had to  
18 relinquish the directorship of the company recently,  
19 or some time ago, because he is a member of parliament.  
20 I haven't the faintest idea what his relationship is to  
21 the company.

22 Q. But he is still a member of the British  
23 Columbia Association?

24 MR. MAGEE: His company is.

25 Q. And still the manager of the British  
26 Columbia fleet operators association -- or, has he  
27 resigned that too?

28 MR. MAGEE: He may well be; I don't know.

29 Q. You would not expect him to introduce  
30 legislation that was anti-truck, would you?

MR. MAGEE: No, but I can tell you one thing





1  
2 about him; his company was not a member of the British  
3 Columbia Association when this amendment was proposed,  
4 and had not been for a very long time as a result of a  
5 serious difference of opinion that had arisen.

6 Q. But he is there now?

7 MR. MAGEE: More recently he has rejoined the  
8 British Columbia Association -- his company.

9 MR. SINCLAIR: Mr. Chairman, the Commission  
10 have noted that the truckers have, in their submissions,  
11 made certain quotes on agreed charges from the Turgeon  
12 report. All I say is, that a number of these are  
13 extracts, necessarily, and I am sure my friends would  
14 agree they have to be read in context, and there are  
15 other extracts from that report that assist in the  
16 proper understanding of these extracts, and I am sure I  
17 don't have to take the time of the Commission to fill  
18 out those quotations.

19 MR. HUME: I will agree that all extracts,  
20 including those presented by my learned friend over the  
21 days, have to be taken in context.

22 MR. SINCLAIR: I haven't presented any, except  
23 Mr. Churchill's, and I will be glad to take Mr. Chur-  
24 chill's remarks in their full context at any time.

25 Q. Under the Transport Act -- and I am on  
26 agreed charges specifically.

27 MR. MAGEE: Yes.

28 Q. Under the Transport Act and under your  
29 amendment, the railways would receive a maximum of 50  
30 percent of a shipper's traffic while, as we discussed  
Friday, under your proposed federal legislation the







1  
2 truckers, by pooling, could get one hundred per cent?

3 MR. MAGEE: I said that in regard to the  
4 position in our proposed act that we are taking a look  
5 at that, and I think I could agree with you if you said  
6 what we are proposing in regard to the railway agreed  
7 charges is that the railway not be able to tie up more  
8 than 50 per cent in the contract. They might receive  
9 90 per cent of the traffic.

10 Q. But the truckers could, under your  
11 legislation, which you are taking a look at, tie up 100  
12 per cent, but you are taking a look at that. What about  
13 the shipping line that is allowed to become a party to  
14 the agreed charge under the Transport Act? If you  
15 amended your proposed legislation, your truckers could  
16 only get 50 per cent and the railways could only get  
17 50 per cent; what about the shipping line? Would it  
18 take part of the railways' 50 per cent under the Trans-  
19 port Act? It would under the law, wouldn't it ---  
20 that is under the law as it is set up now?

21 MR. MAGEE: A steamship line?

22 Q. Yes; C. S. L., for example.

23 MR. HUME: I am sorry, I was reading the  
24 Transport Act; could you give us that again?

25 Q. I am asking him, that the steamship  
26 company, like C. S. L., can become a party to the  
27 agreed charge, and under your proposal the 50 per cent  
28 that was to be the limit for the railways would also  
29 include the shipping line which became a party to the  
30 railway's agreed charge?

MR. HUME: Yes, the intention, as I read the







1  
2 amendment proposed by this association, is that no carrier  
3 under any circumstances should be permitted to tie up  
4 by contract more than 50 per cent, and I would think that  
5 would include all parties, including the shipping line.

6 MR. SINCLAIR: So, therefore, if there were  
7 two railways involved and one shipping line, then the  
8 maximum would be one-third of fifty; correct?

9 MR. HUME: That would follow, yes. If they  
10 were all parties and carrying the freight, yes, that  
11 would follow.

12 MR. SINCLAIR: Q. And if the truckers were  
13 to be allowed to have agreed charges under federal  
14 legislation, I presume the airlines should also be taken  
15 into account, and that there should be a limitation on  
16 them also; correct?

17 MR. MAGEE: Well, we haven't specifically  
18 thought of the airlines, Mr. Sinclair. Maybe we haven't  
19 thought ahead as alertly as we should have, because  
20 certainly the airlines are becoming more important as  
21 cargo carriers.

22 Q. What you are really suggesting is that by  
23 putting these limitations on, it would be impossible for  
24 the shipper with a large segment of his traffic to  
25 bargain with the carrier to get a lower rate? That is  
26 what you are trying to prevent, really, for the protec-  
27 tion of the trucker?

28 MR. MAGEE: You can still bargain with the  
29 shipper -- the shipper can still bargain with the  
30 railway.

Q. But only up to 50 per cent?





1  
2 MR. MAGEE: Yes.

3 Q. Which he may have to split three ways --  
4 which the railway may have to split three ways -- the  
5 other railway and to the shipping line?

6 COMMISSIONER MANN: Mr. Sinclair, under the  
7 provisions of section 32 (2) of the Transport Act the  
8 railway now may have to split it one hundred per cent  
9 three ways or two ways.

10 MR. SINCLAIR: That is right.

11 COMMISSIONER MANN: So, that is nothing new.

12 MR. SINCLAIR: No, but it is when you limit  
13 the percentage: There is a difference between splitting  
14 one hundred per cent and fifty per cent.

15 COMMISSIONER MANN: It is a matter of degree,  
16 not principle?

17 MR. SINCLAIR: That is right, but what I am  
18 saying to the witness, Mr. Commissioner Mann, is that  
19 what he is really getting this down to is, he has taken  
20 away the bargaining power of the shipper offering to  
21 a carrier a large portion of traffic -- a large percentage  
22 of the total traffic, at a lower rate.

23 Q. That is so, isn't it?

24 MR. MAGEE: Not in regard to most of the  
25 agreed charges, I don't think.

26 Q. Well, let me give you this example ----

27 MR. MAGEE: I know there are examples.  
28 I certainly will agree that there are examples.

29 Q. Let us just take a look at how the  
30 public interest would be served with your amendments in  
the light of the situation that exists on the agreed







1  
2 charges for automobiles between eastern Canada and the  
3 west. You know under that agreed charge that there is  
4 one rate for one shipper because he undertakes to ship  
5 75 per cent of his traffic, and there is another agreed  
6 charge which is at a higher rate because those shippers,  
7 in that agreed charge, undertake and contract only to  
8 ship 55 per cent?

9 MR. MAGEE: Yes, I know that.

10 Q. Under your proposal the shipper that  
11 wanted to enter into a contract to give the railways  
12 75 per cent to secure a lower rate would be unable to do  
13 so?

14 MR. MAGEE: That is right.

15 Q. And the one that got the rate for 55 per  
16 cent, he would be unable to enter into that agreed charge?

17 MR. MAGEE: He would be limited to 50.

18 Q. He would be unable to enter into the  
19 agreed charge he has now?

20 MR. HUME: No, he can enter into the contract,  
21 but he could not agree to ship more than 50 per cent.

22 Q. The existing contract which provides a  
23 given rate for 55 per cent could not be entered into,  
24 under your proposal?

25 MR. MAGEE: That is correct.

26 Q. And the effect of what you are trying to  
27 do, is, notwithstanding that you are saying you accept  
28 the principles of agreed charges, you are trying to make  
29 them ineffective -- that is really what you are after?

30 MR. MAGEE: We are trying to leave them there  
and preserve the competitive movement of the traffic.





1  
2 Q. With the knowledge that they will be  
3 largely ineffective under the limitations that you propose?

4 MR. MAGEE: I don't think they will be  
5 ineffective.

6 Q. Largely ineffective, Mr. Magee?

7 MR. MAGEE: No, I don't think they will be  
8 ineffective.

9 Q. What will result, you will agree, is that  
10 most of the agreed charges now in existence would not be  
11 in existence at the rates they are now moving the traffic,  
12 because most of them, if not all of them, exceed 50 per  
13 cent?

14 MR. MAGEE: They would be replaced, I think,  
15 in many instances by a lot of new agreed charges.

16 Q. At a higher rate -- that would normally  
17 follow, based on the example I have given you of the  
18 different percentages on the automobiles, from east to  
19 west?

20 MR. MAGEE: I don't know whether that would  
21 follow, or that it would necessarily follow.

22 Q. You are not a rate man? I think you have  
23 made that clear before?

24 MR. MAGEE: That is right, but ---

25 Q. I think we can argue that point before the  
26 Commission with what we have in the evidence, and I won't  
27 take more time on it now.

28 There were just one or two other points on  
29 this agreed charge that I wanted to ask you about. The  
30 limitation under the agreed charge that you put on the  
railways would apply to all traffic moving by railway,







1  
2 extraprovincially and interprovincially, and the limit-  
3 ation that you proposed on the truckers would apply on  
4 extraprovincial movement and the component that is  
5 extraprovincial and on interprovincial movement; correct?

6 MR. MAGEE: That is as much as we can deal  
7 with as a federal association.

8 Q. That gives the truckers under the existing  
9 law a very large advantage in making agreed charges;  
10 correct?

11 MR. MAGEE: I think that if this found its  
12 way into federal legislation it would eventually find its  
13 way into provincial legislation. I think if we can  
14 get good aspects of federal legislation that the provincial  
15 governments eventually will adopt that as a guide.

16 Q. You think that the mores of the people of  
17 Alberta are going to be affected by the mores of the  
18 people of Ottawa; is that what you are saying?

19 MR. HUME: The people of Canada.

20 MR. SINCLAIR: My friend Mr. Hume is pretty  
21 anxious to be on the record; the people of Alberta are  
22 part of the people of Canada, although at some times I  
23 wonder.

24 MR. MAGEE: My answer to your question would  
25 be, not always but we are hopeful, and the fact that  
26 C. T. A. is on record in this matter to some extent is  
27 going to affect the position of the provincial trucking  
28 associations.

29 MR. SINCLAIR: Q.. Well, you have made clear  
30 to this Commission that provincial trucking associations  
have been struggling for years to get a rate regulation







1  
2 in Ontario and Alberta and have not made one step  
3 forward, have they?

4 MR. MAGEE: We make steps forward, but we never  
5 seem to be able to get to the ultimate goal. There  
6 seem to be setbacks from time to time.

7 Q. Under the Transport Act, the right of  
8 appeal is given where there is unjust discrimination  
9 or where the agreed charge is undesirable in the public  
10 interest. You have no similar provisions in regard to  
11 your proposed control over the truckers' agreed charges,  
12 and wider latitude, therefore, has been given to the  
13 trucking industry than would be given to the railway?

14 MR. MAGEE: Well, in section 16 (1) of our  
15 draft highway transport act, page 10.25, there are  
16 considerations there which the Board would be required  
17 to take into account in regard to trucking requirements.

18 Q. Yes, but I put a specific question to  
19 you: That is, the right of appeal for unjust discrim-  
20 ination or whether the agreed charge is undesirable in the  
21 public interest -- that is not covered by section 16 (1),  
22 is it?

23 MR. MAGEE: No; those words don't appear  
24 there.

25 Q. There is another matter that I think is  
26 very important and crucial: From the earliest days  
27 of agreed charge legislation, the parliament of  
28 Canada was most concerned with protecting the small  
29 shipper, and the fixed charge provisions of the agreed  
30 charge legislation were put in specifically to look  
after the small shipper. Why has the Canadian Trucking





1  
2 Associations turned their back on the small shipper in  
3 their proposals before this Commission?

4 MR. MAGEE: Well, we haven't consciously turned  
5 our back on any small shipper in any proposal that we have  
6 made to this Commission.

7 Q. But the protection of a fixed charge,  
8 which is the protection of the small shipper, is not in  
9 the proposals of Canadian Trucking Associations before  
10 this Commission.

11 MR. MAGEE: The board has the powers to deal  
12 with the rate matters under this proposed legislation,  
13 and any shipper can go and complain to the board.

14 Q. But there is no provision to enable the  
15 regulatory tribunal to make a fixed charge, which is the  
16 protection of the small shipper?

17 MR. MAGEE: No, but the board has the right to  
18 change the truck rates.

19 Q. Can they change the contract and say that  
20 the terms of a contract cannot be lived up to by a small  
21 shipper, but they can make, by legislation, a contract  
22 that is binding on the transport agency, under your  
23 legislation -- I suggest no?

24 MR. MAGEE: They might say to the trucker,  
25 "The rates in the contract that you have made with a  
26 certain shipper will be extended to the complainant."

27 Q. Wherein can they get that power? If  
28 you intended that, I am sure you can point to this  
29 Commission --- because it is important --- you can  
30 point to this Commission where that is, and don't, please,  
say it is in the section to which you referred to a few







1  
2 moments ago, because I have read it and I can assure you  
3 it is not.

4 THE CHAIRMAN: Well, he can look while we take  
5 a short recess.

6  
7 ---Short recess.  
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13 (Page 11529 follows)  
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2 Q. Did you have an opportunity during  
3 the adjournment to consider and consult with your  
4 advisors that you are now able to bring to the  
5 attention of the commission the position of your  
6 proposed Highway Transport Act that deals with fixed  
7 charges to protect the small shipper.

8 MR. MAGEE: It is not there the way  
9 it is in the Transport Act but there is the provision  
10 that the board may amend, reject, suspend or disallow  
11 any tariff that is filed herein. In the example you  
12 gave of the shipper who got a contract with certain  
13 rates in it and the other, shipper who came along and  
14 asked for the rates and could not get them from the  
15 trucker, in the first instance if you wanted to ship  
16 with that trucker he would have to take the rates of  
17 that trucker but when he got the rates he would have  
18 the right to go to the board and ask for the same  
19 consideration as the gentleman who had the contract.

20 Q. Well, I will not spend any more  
21 time with the witness on this, it is quite capable  
22 of being argued in the light of the evidence given.  
23 I must say that I disagree with it but it is a matter  
24 that can be dealt with later.

25 MR. MAGEE: I understand that there  
26 have been cases before the Motor Carrier Board of  
27 Manitoba where a trucker was told to bring his rates  
28 to a certain level for a competing shipper and  
29 was told that he would not be in business if he did not  
30





1  
2 do so. That was a case where the shipper had complained  
3 that a competitive shipper was getting certain rates  
4 from a trucker and that he was not getting them.

5 Q. That is unjust discrimination,  
6 that is not fixed charge, correct?

7 MR. MAGEE: Well, it is not a fixed  
8 charge but it is a similar situation.

9 Q. That is your position and, as  
10 I say, this can be argued. One further point under  
11 your proposals an agreed charge to come in for truckers  
12 immediately and under the Transport Act the railways  
13 may institute their agreed charge in relation to the  
14 expiry of 20 days and this the truckers would have altered  
15 the latitude, correct?

16 MR. MAGEE: That is right, the provision  
17 about the 20 days is not in our Act.

18 Q. And you did not suggest it be  
19 repealed in the Transport Act?

20 MR. MAGEE: No. I do not think it makes  
21 too much difference now the way the agreed charge  
22 legislation is set up, you just file it and they stack  
23 up and there is not much the Board of Transport Commissioners  
24 can do about that anymore.

25 Q. Just as a matter of information  
26 to the commission, can we add into your submission  
27 that now this has been brought to your attention that  
28 Canadian Trucking Associations is advocating and re-  
29 commending to the commission that the 20 day provision  
30







1  
2 in the Transport Act be repealed?

3 MR. MAGEE: No, because if you did that  
4 that would be making policy in the Canadian Trucking  
5 Associations and I do not make the policy, I just try  
6 to represent it properly.

7 Q. But on the other hand, you would  
8 deal with the bills that you have dealt with as your  
9 own child, the child of Canadian Trucking Associations,  
10 one you conceived, you're asking this commission to  
11 recommend and the Parliament of Canada to give birth  
12 to what you suggest there by a 20 day limitation clause;  
13 would you recommend that?

14 MR. MAGEE: I cannot make any comment  
15 on it.

16 Q. All right, we will go on to one  
17 other point that comes up. Canadian Trucking Associations  
18 are averse, according to your submission, to making  
19 representations to the Governor in Council and you say  
20 that you want that amended so that any representations  
21 that should be made to the minister. Now, I take it  
22 that we can agree the reason Canadian Trucking  
23 Associations are advancing that is because we agree  
24 that the Governor in Council are not men who readily  
25 understand the complexities of rate making, they are  
26 busy people and the introduction of politics into  
27 the question of rate making is always a very real  
28 danger. That is why you have made that suggestion?

29 MR. MAGEE: Well, we were thinking of it  
30





1  
2 more in terms of the rather formidable aspect. Suppose  
3 we have a trucker with one or two trucks going to  
4 the whole Governor in Council with an appeal on an agreed  
5 charge.

6 Q. But he would be represented by  
7 the very, very large Canadian Trucking Associations  
8 before that body. You object to appeals to the  
9 Governor in Council on another ground, you state they  
10 can result in an in camera hearing and this, of course,  
11 this Commission is very conscious of the fact that  
12 they are in camera proceedings before the Governor in  
13 Council.

14 MR. MAGEE: Yes.

15 Q. And that the Governor in Council  
16 has on one notable occasion taken action without  
17 even advising one of the parties who had taken a case  
18 before the board and the case had gone to the Supreme  
19 Court of Canada. You know about that?

20 MR. MAGEE: About demurrage, I think?

21 Q. Yes?

22 MR. MAGEE: I am learning a lot of  
23 things as I listen here.

24 COMMISSIONER MANN: Could I ask Mr.  
25 Magee to clarify something? Was the objection of  
26 C.T.A. against appeals to the Governor General in  
27 Council or was the objection of C.T.A. to appeals  
28 to the Governor General in Council when the trucking  
29 industry is not a party to such proceedings?  
30







1 MR. SINCLAIR: I think that is the  
2 answer because the brief says very clearly their  
3 objection to appeals - they already have the power  
4 to go to the Governor in Council in respect of agreed  
5 charges and he made that clear and his brief,  
6 Commissioner Mann, says that he wants to have that  
7 done away with and an amendment made so the appeal  
8 is made to the minister.

9 MR. MAGEE: Well, I think maybe there  
10 is some misunderstanding occurring and it may be as  
11 a result of our not having expressed that clearly  
12 enough in our brief. We are not recommending that  
13 the right of appeal to the Governor General in Council  
14 be done away with.

15 Q. Even though those appeals are in  
16 camera. You see, you have told us in two parts  
17 of your brief and I have just put the two parts together.  
18 Perhaps you did not think of that but I did and I  
19 think it is of assistance to the Commission to bring  
20 a principle that you enunciate in one part of your  
21 brief to apply to another part of your brief.

22 MR. MAGEE: We would certainly have  
23 no objection to revising of the legislation that made  
24 it possible for any party affected by an appeal on  
25 agreed charges to the Governor in Council being present.

26 Q. Why should there be appeals to  
27 the Governor in Council? Why not appeals to a  
28 regulatory body and just stop there where the people  
29 have the duty and obligation of being knowledgeable  
30





1  
2 in the complexities of rate making and who are assisted  
3 in the determination by specialists.

4 MR. HUME: Excuse me. Are you talking  
5 about appeals from freight rate cases or are you  
6 talking about the purpose of this amendment which  
7 allows an appeal to the Governor in Council with respect  
8 to an agreed charge? It seems to me they are completely  
9 different and I want to make sure we are talking about  
10 the same thing.

11 MR. SINCLAIR: I am talking about matters  
12 of principle that the witness has dealt with. This  
13 is a matter of appeals in camera and also suggesting  
14 an appeal to the minister rather than to the Governor  
15 in Council.

16 MR. HUME: I am sorry, I do not think  
17 the brief does deal with appeals on freight rate  
18 cases to the Governor in Council in camera. There was  
19 a complaint about in camera hearings in connection  
20 with the \$20,000,000.00 subsidy but nothing in the  
21 brief talks about appeal procedure under the Act  
22 with respect to freight rate decisions.

23 MR. SINCLAIR: The witness made it  
24 clear. Your acuity after the weekend has been turned  
25 down. Mr. Mauro put this question to the witness  
26 when he suggested that he was prevented from being at  
27 the appeal that took place before the Governor in Council  
28 with respect to the 17% case and he had to rely on  
29 newspaper reports of what took place there.  
30







1  
2 MR. HUME: That is correct.

3 MR. SINCLAIR: He then dealt specifically  
4 with Mr. Mauro with the position in the brief of  
5 your client at page 5.17 where he said:

6 "The Western and Maritime provinces  
7 fought for it with their representations in camera  
8 to the Governor in Council. With new representations  
9 incamera to the Governor in Council, some, if not all,  
10 of the provinces are doing everything in their power  
11 to immortalize it - exactly as we predicted last year."

12 MR. HUME: That is talking about the  
13 Freight Rate Reduction Act and so there would not  
14 be any misunderstanding, I had understood that you  
15 are asking the witness with respect to the appeal  
16 procedure from freight rate acquiries and they are  
17 two different things and I just want to make sure there  
18 is no confusion.

19 MR. SINCLAIR: My friend wants me to  
20 pin-point it a little more.

21 Q. Did you not tell Mr. Mauro when  
22 he asked you certain questions that you are under a  
23 disability of not knowing whether the provinces had  
24 advanced the question of subsidies in place of  
25 the 17% increase on the appeal because you were not  
26 there and those were in camera hearings.

27 MR. MAGEE: Yes, I made that position  
28 clear.

29 Q. Now, I want to go back to the  
30 point I was asking you about: it is not the position







1 of Canadian Trucking Associations that these appeals  
2 to the Governor in Council which had to on certain  
3 occasions act in camera, that is not in the public  
4 interest.

5  
6 MR. MAGEE: Well, I prefer not to  
7 move away from this specific amendment or the specific  
8 representation of the Transport Act, Mr. Sinclair,  
9 because we have not actually proposed any legislative  
10 amendment in regard to the manner in which appeals on  
11 freight rate cases are heard by the Governor in Council.  
12 I think the reason we have not is that we now feel  
13 that maybe there are other ways that we can be present  
14 at the proceedings on the freight rate cases and,  
15 therefore, that we would be at the appeal.

16 Q. But if you found it bad until  
17 you got an ability to be there in some other way, there  
18 must be some other people who are similarly situated  
19 and as a matter of principle and having a great desire  
20 to advance the public interest, surely you would in  
21 a matter of principle agree that this appeal procedure  
22 to the Governor in Council from a regulatory tribunal  
23 is not a good thing in the public interest.

24 MR. MAGEE: Well, I do not want to go  
25 beyond what we have said in regard to the Transport  
26 Act. I will try to answer your questions there but  
27 I do not have instructions on the other point. I  
28 did express strong feelings of the trucking industry  
29 about the freight rate appeal and the situation  
30 which we thought led to the \$20,000,000.00 subsidy





1  
2 but we have not actually drawn that up in legislative  
3 recommendation in our submission for the reason  
4 that I have expressed that we think there may be  
5 another way to deal with that.

6 THE CHAIRMAN: Your complaint is that  
7 you were not allowed to be heard on the appeal?

8 MR. MAGEE: That is right, Mr. Chairman.

9 MR. SINCLAIR: Q. That is a complaint  
10 that others have had on certain other appeals, Mr.  
11 Magee?

12 MR. MAGEE: Yes, I understand that is  
13 so.

14 Q. That arises from the type of  
15 procedure that is provided?

16 MR. MAGEE: Yes.

17 Q. Now, another point I wish to  
18 discuss is piggybacking.

19 MR. MAGEE: Yes.

20 Q. You say that piggybacking gave  
21 truckers more flexibility and more efficient use of  
22 their equipment.

23 MR. MAGEE: Yes.

24 Q. That is section 8 of your  
25 submission?

26 MR. MAGEE: Yes.

27 Q. Now, piggybacking has been a  
28 boon to the trucking industry in the road ban. Has  
29 it not?

30 MR. MAGEE: Yes, it has been helpful in







1  
2 the road ban.

3 Q. And piggybacking has also been a boon  
4 to the private motorists who before piggybacking had  
5 the unfortunate experience of riding behind this big  
6 truck --

7 MR. MAGEE: Smith Transport?

8 Q. It may be Smith Transport, yes, we will  
9 use that as an example; riding behind a Smith Transport  
10 truck with these obnoxious diesel fumes belching  
11 backward --

12 MR. MAGEE: Diesel fumes go upward.

13 Q. Pouring into the heater of his car.  
14 You have never had that experience yourself?

15 MR. MAGEE: I have had that experience behind  
16 other cars. In regard to the heaters, I think it is  
17 time people devised a good heater for motor cars that  
18 did not do that.

19 Q. It has been a boon to the private  
20 motorist to take away these noxious diesel fumes from  
21 the highways through piggybacking; it has been a boon  
22 to private motorists.

23 MR. MAGEE: Well, in one way it may have  
24 been a boon but, on the other hand, he does not find  
25 the helpful trucker when he gets into difficulties.

26 Q. Let us talk about the helpful trucker  
27 barrelling down the highway with a forty foot truck  
28 weighing 50,000 pounds and a timid weekend motorist  
29 like myself wants to try and pass him. Have you ever  
30 been in that position, a timid weekend motorist like





1 myself trying to pass a truck going fifty miles an  
2 hour with 50,000 pounds? Have you ever seen that  
3 poor fellow on the highway on Sunday.  
4

5 MR. MAGEE: I am a fairly timorous motorist  
6 myself. I think most of the drivers of the big trucks  
7 will help you pass to their ability to do so.

8 Q. But they cannot help a timorous motor-  
9 ist pass, can they, unless they stop?

10 MR. MAGEE: There is not doubt about it the  
11 size of a vehicle to a timid person behind the wheel  
12 is a little worrying on occasions.

13 Q. And by taking these --

14 MR. MAGEE: That is why I would like to  
15 have truck drivers like Cannonball driving our vehicles.

16 Q. I recognize Cannonball is your epitome  
17 but that is made in the United States.

18 MR. HUME: No, it is made right here.

19 MR. SINCLAIR: The actors are Canadians?

20 MR. MAGEE: Yes, it was still made in Toronto.

21 MR. SINCLAIR: The actors are Canadians?

22 COMMISSIONER MANN: Fifty-five per cent  
23 content.

24 MR. SINCLAIR: Well, this boom to the private  
25 motorist is something that highways - it is a boon,  
26 piggybacking, and that is not something you want to  
27 discourage.

28 COMMISSIONER BALCH: You mentioned on  
29 Sunday, is that right?  
30





1 MR. SINCLAIR: Yes.

2  
3 MR. HUME: He could not have been talking  
4 about eastern Canada with trucks on Sunday.

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9 (page 11544 follows)  
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2 COMMISSIONER BALCH: Mr. Sinclair, you  
3 mentioned on Sunday; is that right?

4 MR. SINCLAIR: Yes.

5 MR. HUME: He couldn't have been talking about  
6 eastern Canada; they don't move on Sundays.

7 MR. SINCLAIR: There are places in Canada  
8 where trucks move on Sunday.

9 MR. MAGEE: Carrying perishables.

10 MR. SINCLAIR: They are still belching  
11 noxious diesel fumes.

12 MR. MAGEE: There are locomotives belching  
13 diesel fumes.

14 MR. SINCLAIR: Q. You are not trying to  
15 discourage the boon to the private motorists having  
16 piggyback move these large vehicles, if piggyback wasn't  
17 available?

18 MR. MAGEE: I don't think we have actually  
19 set that out in our submission, Mr. Sinclair, but it  
20 does decrease the number of vehicles on the highway.

21 Q. Which is something which should be en-  
22 couraged, in the public interest, you would agree?

23 MR. MAGEE: Well, I think the highway move-  
24 ment of freight is in the public interest, very much  
25 so.

26 Q. You said that the removal of them by  
27 piggybacking is something that ought to be done in the  
28 public interest, and that would remove the private  
29 motorist.

30 MR. MAGEE: We have no adverse reaction to  
that result of piggybacking, Mr. Sinclair.





1  
2 Q. Your association, Mr. Magee, as I under-  
3 stand your submission, would be in favour of piggybacking  
4 for private carriers; correct? It is implicit in  
5 your submission, is it? It is not set out, but I take  
6 it is implicit that your association would be in support  
7 of piggybacking being made available to private carriers.

8 MR. MAGEE: I don't think we support it.  
9 We recognize that it is an issue that has arisen and we  
10 make some suggestions about it.

11 Q. But you wouldn't suggest that private  
12 carriers should be denied the flexibility and more  
13 efficient use of their equipment through increased  
14 capacity which piggybacking brings about, would you?

15 MR. MAGEE: We haven't made any recommendations  
16 against the use of piggyback by private carriers, except  
17 that we have suggested that there should be some measure  
18 of control in regard to piggyback so that its develop-  
19 ment will proceed in an orderly manner.

20 Q. Why should the piggyback operations of  
21 the railways be subject to any other or different  
22 control than they are for any other shipment given to  
23 them for movement?

24 MR. MAGEE: Well, you see, piggyback is an  
25 intermingling of the truck and rail, and you have such  
26 considerations as the licensing system of the trucking  
27 industry, the regulation of the trucking industry.  
28 There are many things bound up in the issue of piggyback.

29 Q. It is just another means, I suggest to  
30 you, your piggybacking, of protecting truckers. Your  
submissions and your concerns are not anything except a







1  
2 fear of something that might be adverse to the truckers'  
3 interests; is that right?

4 MR. MAGEE: Well, we have some concern about  
5 some of these developments, Mr. Sinclair. It is a new  
6 thing, and I think when a fairly new development  
7 like this occurs there are always concerns and fears.  
8 Sometimes they are justified, and sometimes events prove  
9 they are not justified.

10 Q. There is nothing to prevent a trucker  
11 from picking up less than carload shipments, consolidating  
12 them in a truck and then picking up that truck load by  
13 piggyback, is there?

14 MR. MAGEE: Not that I know of.

15 Q. Then why would a forwarder, why should there  
16 be any restriction on a forwarder picking up shipments  
17 and forwarding them and picking them up by piggyback?

18 MR. MAGEE: We think that the forwarder  
19 should be controlled, and if he moves over the highway  
20 or has a capacity of operating vehicles and hauling over  
21 the highway, even though he may go down the highway one  
22 night and piggyback the next, we think that he should be  
23 regulated. We don't say pass a law saying that  
24 forwarders cannot operate.

25 Q. But if a forwarder went piggyback every  
26 night, then you would have no objection to him as long  
27 as he wan't operating over the highway. You wouldn't  
28 want to stop him having the advantages of piggyback as  
29 long as, you say, he went that way all the time?

30 MR. MAGEE: Well, if he is using motor vehicles  
for the pickup of freight in one city and its delivery in





1  
2 another, we believe he should be subject to regulation.

3 Q. If a forwarder company is, as your counsel  
4 has suggested, an extraprovincial undertaking and the  
5 pickup and delivery of that forwarding company is  
6 incidental to the movement of the goods between the  
7 provinces, how can you control them except by federal  
8 legislation?

9 MR. MAGEE: We are getting again into  
10 this legal matter that I am not too competent to speak  
11 on, Mr. Sinclair.

12 Q. Didn't you consider all these matters  
13 before you dealt with piggybacking in section 8 of your  
14 submission?

15 MR. MAGEE: In regard to the section on piggy-  
16 back, Mr. Sinclair, we did the best job we could to  
17 present something objective in piggyback to the Com-  
18 mission, because the Commission itself indicated on more  
19 than one occasion its interest in this matter, and that  
20 section represents the views of the trucking industry  
21 as they exist at the present time, and those are the  
22 views I am called upon to put forward.

23 Q. On page 8.7 you say:

24 "The interests of all carriers, "  
25 and then you say:

26 "both the railways and public highway carriers,  
27 should be safeguarded."

28 I suggest to you that all carriers would include private  
29 carriers, it would include forwarders, it would include  
30 a number of people; it would include local carters. They  
should all be protected, shouldn't they, on this matter







1  
2 of piggybacking?

3 MR. MAGEE: Yes.

4 Q. And no rules should be put upon them to  
5 prevent them making the full economic use of this  
6 advance in transportation. You would agree with that?

7 MR. MAGEE: We haven't proceeded far enough  
8 in our views on regulation of piggyback for me to answer  
9 that satisfactorily, I don't think, Mr. Sinclair.

10 Q. Thank you, Mr. Magee. Then --

11 MR. MAGEE: I think that the private carrier  
12 now, as we understand it, has the legal right to be  
13 carried by piggyback under the act.

14 Q. And sometimes private carriers have  
15 used piggyback in Ontario?

16 MR. MAGEE: Yes, I think I know of one  
17 instance.

18 Q. But you are not suggesting to this  
19 Commission that they suggest any limitation on that  
20 right of the private carrier?

21 MR. MAGEE: No. I think the key statement  
22 is not whether such developments should be prevented but  
23 rather whether they should be controlled, just as entry  
24 into the trucking industry is being controlled in most  
25 areas.

26 Q. This, of course, would protect the highway  
27 trucker against other people who had other modes that  
28 move their goods?

29 MR. MAGEE: Do you want us on the piggyback  
30 or don't you?

Q. I am not here to answer questions; I am  
asking you questions.







1  
2 MR. MAGEE: I am sorry, I shouldn't have  
3 asked you that question.

4 THE CHAIRMAN: Sometimes questions suggest  
5 questions and answers, Mr. Sinclair.

6 MR. SINCLAIR: Very well, Mr. Chairman, the  
7 answer to the question by the witness is yes, and there  
8 should be no limitation imposed by this Commission that  
9 in any way produces further legislation to hamstring the  
10 railways, and the only reason I am asking these questions,  
11 Mr. Chairman, is in view of the fact that the Commission  
12 indicated that they were interested in this situation  
13 from a railway standpoint, and in the public interest  
14 I am asking these questions. Of course, Canadian  
15 Pacific have indicated that they have not, by their  
16 actions, tried to limit piggyback only to the movement  
17 of the railways; they have made it available to private  
18 carriers. So the answer to the question that you felt  
19 should be answered, Mr. Chairman, is by all means  
20 Canadian Pacific wants all the traffic that has a dollar  
21 in it, and it doesn't want any of the traffic that can't  
22 be carried at reasonable rates.

23 THE CHAIRMAN: The Commission is most interested  
24 in this question because it covers the whole field of  
25 transportation.

26 MR. MAGEE: What I wanted to say, Mr. Sinclair,  
27 when I asked that question, is that if piggyback is going  
28 to be thrown open on an uncontrolled basis, then your  
29 whole type of regulated trucking industry that you have  
30 got in Canada is going to be turned upside down.

Q. If the forces of competition bring that





1  
2 about, is that bad?

3 MR. MAGEE: Well, we answered that question,  
4 too. We said that we did not think that all the  
5 developments we would like to see ourselves necessarily  
6 would follow, but we do say that if piggyback is absolutely  
7 wide open to all comers, it is going to break down the  
8 regulatory system; and what I was coming to after that  
9 was this, that if that happens, are not the for-hire  
10 truckers going to reconsider whether piggyback is to their  
11 advantage, because they don't want that system destroyed.

12 Q. The for-hire truckers only use piggyback  
13 where it is more economic or gives them greater flexi-  
14 bility. They don't use piggyback because they like the  
15 railways.

16 MR. MAGEE: That is quite correct, Mr. Sinclair.

17 Q. And it was only for that interest that  
18 other people would use it?

19 MR. MAGEE: Yes.

20 Q. And there is no question of altruism in  
21 this situation, but it is a question of service and  
22 cost.

23 MR. MAGEE: Yes. But all I have done is  
24 pose the problem of licensed operators running from the  
25 city of Toronto to Ottawa, and if we have absolutely  
26 uncontrolled piggyback there is nothing to prevent anyone  
27 in this city getting himself a tractor-trailer unit,  
28 going around and soliciting freight and sending it down  
29 to Montreal with the units of other licensed taxpaying  
30 truckers, and there would be quite a different situation  
there in regard to the obligations on the one as compared







1  
2 with the obligations upon the licensed truckers.

3 Q. There is no difference in the operation  
4 of the one than the fellow who operates a carrier as a  
5 private carrier.

6 MR. HUME: He has got his own goods on the  
7 vehicle? Are you talking about the private carrier  
8 shipping his own goods?

9 MR. SINCLAIR: Yes.

10 Q. Well, I won't debate it further with you,  
11 Mr. Magee.

12 I will turn now to another question and ask you  
13 to turn your mind to the question of railway entry into  
14 highway transport.

15 MR. MAGEE: Yes.

16 Q. And as I understand - you have answered  
17 a lot of questions to my friends on this and I won't be  
18 long with you for that reason. But I would ask you  
19 in this situation, in the light of your submissions,  
20 assume with me that there is only one highway carrier  
21 between points A and B.

22 MR. MAGEE: Yes.

23 Q. And that the railways are taking off their  
24 train which handles their express and l.c.l. freight,  
25 and reducing the line between A and B to the movement  
26 of carload traffic by rail to look after the l.c.l.  
27 movement where there is this one trucker, the railways  
28 apply to the regulatory authority for the right to move  
29 goods of the highway movement between A and B, would  
30 you support the application of the railway company to  
have a trucking licence over that highway?





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2 MR. MAGEE: I think if the truck service,  
3 the existing truck service was adequate, we would be in  
4 favour of the railways using the existing truck service.  
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2 Q. Even though it is the only one?

3 MR. MAGEE: Well, there are very, very  
4 few -- it could happen, the example you are proposing.

5 Q. Let me warn you, it has happened.

6 MR. MAGEE: Yes, I say it could.

7 Q. Let me warn you that this assumption  
8 is factually correct, and I can give you the points,  
9 but I don't think the Commission is too interested in  
10 them, and I want to know whether the Canadian Trucking  
11 Associations in that situation would try to preserve a  
12 monopolistic situation for the for-hire trucking  
13 industry or would they, in the public interest, and  
14 recognizing the necessity to have competitive forces,  
15 support the application of the Canadian Pacific Railway  
16 Company for a trucking licence before the regulatory  
17 board?

18 MR. MAGEE: Well, I think that if the Canadian  
19 Trucking Associations was dealing with the matter --  
20 and we don't usually intervene on applications for  
21 operating rights; those are usually dealt with by the  
22 provincial trucking associations.

23 Q. Would they extend their good offices to  
24 their provincial associations to see if their good offices  
25 could prevent the growth of this monopolistic situation  
26 for the movement of this traffic?

27 MR. MAGEE: I just can't conceive of any  
28 trucker getting on to any route where there was any  
29 particular traffic offering and staying there by himself  
30 for any length of time. There may be a few instances,  
but I don't think very many.







1  
2 Q. Would you think that a well travelled  
3 road and one that presents a lot of traffic for the  
4 trucking industry -- let us take a position in Sask-  
5 atchewan between Estevan, Weyburn and Regina --- you  
6 know that country?

7 MR. MAGEE: Not too well.

8 Q. This is between some of the most  
9 important senior towns of western Canada and one of the  
10 great jewels of western Canada -- Regina.

11 MR. MAGEE: Yes. My problem is that when  
12 I travel I am usually holed up in the jewels of the  
13 Canadian Pacific or Canadian National Railway hotel rooms,  
14 at a meeting.

15 Q. Well, let us take this example: We have  
16 one truck line between Weyburn, Estevan and Regina, and  
17 the railway, we will say, is going to discontinue its  
18 service for all except carload commodities, and take off  
19 its passenger train service, and thereby not provide  
20 express service or package freight service, and in doing  
21 that it is going to continue to provide service to the  
22 people for those types of shipments by applying to the  
23 provincial regulatory board for a licence to operate  
24 over the highway. Would C. T. A. use its good offices  
25 to prevent a monopolistic situation arising on the  
26 highway by trying to have the Saskatchewan association  
27 support the application?

28 MR. MAGEE: Well, I don't think it is a  
29 monopoly, because there are private trucks there --  
30 farmers with their trucks, and other people with their  
trucks.





1  
2 Q. You think that as long as there is some-  
3 body else that can move the goods, either actually or  
4 potentially, then you haven't got monopoly? That is  
5 your answer to my question?

6 MR. MAGEE: It would not be for the for-hire  
7 trucker.

8 Q. And it is for that reason you would not  
9 support the application of Canadian Pacific?

10 MR. MAGEE: Yes. You see, you can make  
11 applications for operating rights by rail and then start  
12 connecting up what you have got with other operations,  
13 and it all constitutes an expanded entry into the  
14 trucking field, and I would imagine, under the instance  
15 you have quoted, it probably would be opposed by the  
16 association. It would then be up to the Saskatchewan  
17 highway traffic board to decide what was right.

18 Q. I think the Commission and I understand  
19 your position as to your problem in the public interest.  
20 I will now turn to the point of integration.

21 MR. MAGEE: Yes.

22 Q. In this you seem to be of the impression  
23 that one management could not do two things well, and  
24 thereby bring about the application of common management  
25 and the advantages that come from common management,  
26 because trucking is different from rail. Now,  
27 Mr. Magee, let us look at that for a minute.

28 MR. MAGEE: Yes.

29 Q. It is possible you will agree that  
30 you can have good railway management that can also be,  
at the same time, good trucking management; isn't that a







1  
2 possibility?

3 MR. MAGEE: Yes, that is a possibility.

4 Q. Indeed, Mr. Magee, we have many instances  
5 of people doing two very different things, and doing them  
6 both very well. Let me give you some examples: A  
7 man can be a first-class barrister and at the same time  
8 a first-class politician; you will agree with that?

9 MR. MAGEE: Yes.

10 Q. You will agree a man can be a first-class  
11 forestry engineer and at the same time be a first-  
12 class politician?

13 MR. MAGEE: Yes.

14 Q. And you will agree that a man can be  
15 first class at running two companies very well, one of  
16 which is in manufacturing the press of the grape and the  
17 other one is involved in the dew of the bar?

18 MR. MAGEE: Yes.

19 Q. You will also agree a man at the same time  
20 can be a first-class grain farmer and a first-class stock  
21 farmer or rancher?

22 MR. MAGEE: I would imagine so, yes.

23 Q. In the realms of sport, for instance;  
24 Mickey Mantle is a great switch hitter, and they are very  
25 different things, and he also plays the field very well.

26 MR. MAGEE: Yes.

27 Q. And there is Gordie Howe and Jackie Parker  
28 -- they can play both ways; so, they do two very different  
29 things very well?

30 MR. MAGEE: Yes. This is very relaxing,  
Mr. Sinclair.





1  
2 Q. And you can do two things very well too,  
3 can't you -- and do so?

4 MR. HUME: For instance?

5 MR. SINCLAIR: Q. For instance, you present,  
6 as a witness, the views of Canadian Trucking Associations.

7 MR. MAGEE: Yes.

8 Q. In accordance with the policy laid down,  
9 and at the same time you try to influence along a certain  
10 line what the policy might be.

11 THE CHAIRMAN: I think we can take it that  
12 Mr. Magee is a very first-class official.

13 MR. MAGEE: A trucking association official  
14 is just a civil servant; if there are things that escape  
15 people's attention that he is dealing with, it is up to  
16 him to point them out so they will have all the facts.

17 Q. So, when we take a management that does  
18 two different things well, and that common management is  
19 able to meld those two different things and thereby  
20 reduce costs, it should be fostered, should it not?

21 MR. MAGEE: I think our view in the brief was  
22 that it didn't bring any particular additional advantages.

23 Q. I am just pointing out to you if you get  
24 the right kind of management which can do two different  
25 things well, that the melding of the two into one, which  
26 brings about reductions in costs, is something that should  
27 be fostered?

28 MR. MAGEE: Not if it means the danger of a  
29 monopoly of public carrier transportation.

30 Q. I say "subject to the monopoly" -- and I  
know how you define that -- I accept your answer. Could







1  
2 you tell the Commission why, or under what circumstances,  
3 would a shipper, in your view, be denied the advantages  
4 that would flow from an integrated service provided by  
5 Canadian Pacific, and the cost and service advantages that  
6 would flow from having one pickup truck handle his goods  
7 instead of three --- one being the trucker, one the railway  
8 and the other being a ferry service --- and this has  
9 reference to the point I made earlier with you concerning  
10 Saint John, N. B. Under what circumstances would a  
11 shipper, in your opinion, be denied the cost and service  
12 advantages that would arise under those circumstances?

13 MR. MAGEE: If the facilities were there?  
14 They all exist? It comes to the question of integration,  
15 doesn't it?

16 Q. Yes, rather quickly too.

17 MR. MAGEE: Well, integration is the occurrence  
18 that takes place when you enter our field and buy out,  
19 or make applications for operating rights, and then there  
20 is the danger of monopoly when you buy truck lines.  
21 We are opposed to that.

22 Q. And your answer to my question would be  
23 that the shipper could be denied these advantages that I  
24 spoke of if it was going to result in monopoly -- that  
25 is the circumstance where it should be denied?

26 MR. MAGEE: He might have to be denied an im-  
27 mediate advantage in this particular instance because of  
28 the over-all monopoly developments that might be  
29 occurring.

30 Q. All turning on monopoly again. And the  
same answer, I take it, would be that if the man at







1  
2 Saint John, who would have, under integration, the right  
3 to have his goods moved by rail, by highway and by  
4 ship, or one or the other, or a combination of one or the  
5 other or all three, and receive the convenience and the  
6 cost saving of receiving one bill from Canadian Pacific,  
7 that shipper would be denied that advantage, that  
8 convenience and cost saving, again, I take it, only to  
9 prevent monopoly, and in any other circumstances it  
should be fostered; correct?

10 MR. MAGEE: Yes. It comes to further expan-  
11 sion, though -- the issue of further expansion, I think,  
12 because you are already very well established as a  
13 highway transport operator right across Canada. You are  
14 in a position to do a lot of things now in regard to  
15 integration that were not possible 15 years ago.

16 Q. Well, here is my third point: I want you  
17 to consider a shipper in Regina who wishes to move pipe  
18 to Medicine Hat; why should that shipper under any cir-  
19 cumstances be denied the opportunity of turning that  
20 pipe over to Canadian Pacific and leaving it to the  
21 Canadian Pacific to move it from Regina to Medicine Hat  
22 in the most economical, the swiftest way, taking into  
23 account the traffic flows, type of shipment and all  
24 other factors that govern it? Why should he under any  
25 circumstances be denied all the service, cost and con-  
26 venience factors that flow from that arrangement?

27 MR. MAGEE: If you are in a position to do  
28 it now, we don't have any recommendations that would  
29 curtail that arrangement.

30 Q. But if we are not in a position to do it





1  
2 now, why should the shipper be denied the ability of  
3 having that service by Canadian Pacific placing itself  
4 in that position?

5 MR. MAGEE: Because too large an entry into  
6 the trucking industry will produce a danger of control  
7 and monopoly by the railway of public carrier transport-  
8 ation in that area.

9 Q. It hasn't done so yet. What you are sug-  
10 gesting is that there is a possibility that if at some  
11 time in the future there are circumstances that, by owning  
12 most of the trucking in Canada the Canadian Pacific  
13 could control the situation -- is that it?

14 MR. MAGEE: Or owning a healthy chunk of it  
15 in one particular area.

16 Q. What would a healthy chunk be--something  
17 over 50 per cent, I take it?

18 MR. MAGEE: Well, I don't know. That is  
19 what the board would have to decide if our public  
20 interest division was incorporated in truck regulation.

21 Q. I just have a very few more questions.  
22 Mr. Magee, Mr. Montague in answer to Mr. Cooper was dealing  
23 with certain tables.

24 MR. MAGEE: Yes.

25 Q. And the question arose as to whether these  
26 tables included local cartage. This was in section 3.2, para-  
27 graph r, and Mr. Montague has spoken to me, and 3.2, para-  
28 graph 5 was really where Mr. Cooper's question was  
29 directed, and he has asked me to give him the opportunity  
30 of correcting his figures because he has had further  
discussions with the D. B. S.







1  
2 MR. MAGEE: With the other Mr. Brown.

3 Q. Yes, the non-trucking Mr. Brown. Very  
4 well, Mr. Montague?

5 MR. MONTAGUE: We found that there was no  
6 breakdown for the 1957 figures, which were the figures  
7 we gave, but D. B. S. had broken down the figures for  
8 1958, and their breakdown revealed the following, that  
9 the figures shown for tonnage handled by trucks,  
10 29 per cent of that tonnage handled by trucks was handled  
11 by inter-city cartage; 11 per cent of revenues shown as  
12 handled by trucks was handled by inter-city cartage.  
13 I missed the figure on ton miles; I think it was 6 per  
14 cent. I would have to confirm that with the reporter.  
15 I can file with you the amended table, and this table  
16 would substitute for the table in paragraph 9.

17 Q. And also would change the figures given  
18 at the top of 3.2, being paragraph 5.

19 MR. MONTAGUE: That is correct.

20 Q. And in two or three other parts of this  
21 section: For instance, in paragraph 11.

22 MR. HUME: It would bring them up to the  
23 1958 figures.

24 MR. SINCLAIR: Q. It would also probably  
25 state what to take out of the figures -- the cartage  
26 figures of the for-hire cartage industry.

27 MR. MONTAGUE: In regard to the figures in  
28 paragraph 11, which are simply indexes, it would reveal  
29 a greater growth in truck index because we would have  
30 taken out the tonnage handled by the urban for-hire  
transit.





1  
2 Q. You would take it out of both the base  
3 and out of --

4 MR. MONTAGUE: Out of the growth, but as the  
5 growth has been largely in our end of it, the index  
6 would reflect it.

7 MR. SINCLAIR: Well, I think, Mr. Chairman,  
8 that in view of Mr. Montague's offer to change these  
9 figures, this point was raised by Mr. Cooper, and I  
10 think he has now looked after that situation.

11 ----Luncheon adjournment.  
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1  
2 ---On resuming at 2 o'clock.

3 THE CHAIRMAN: Order, please.

4 MR. SINCLAIR: Q. Mr. Magee, would you turn  
5 to page 3.2 of your submission and in your paragraph  
6 No. 7 you refer to:

7 "However, in view of monopolistic elements in the  
8 rate structures, and certain distortions which  
9 exist, operating revenues are only an approximate  
10 indicator."

11 Last week Mr. Cooper examined you in regard to  
12 that and Mr. Montague took over and he said that when-  
13 ever the rate exceeds the full costs, some monopolistic  
14 element exists. For the assistance of the Commission I  
15 wish to put to Mr. Montague, what did he mean when he  
16 said "full costs"? I am paraphrasing your answer when  
17 I say "Whenever a rate exceeds full costs, some monopolis-  
18 tic element exists." What do you mean by full costs?  
19 Fully distributed costs?

20 MR. MONTAGUE: Fully distributed costs, yes.

21 Q. And now, Mr. Montague, you would agree  
22 that in the truck freight rate structure there are  
23 rates above fully distributed costs?

24 MR. MONTAGUE: Yes.

25 Q. And there are some that are below fully  
26 distributed costs, you have made that clear. Some rate  
27 in the freight rate --- trucking freight rate structure?

28 MR. MONTAGUE: Yes, individual rates may be.

29 Q. And you would also agree that there are  
30 cases where your rates are above fully distributed costs







1  
2 and you have no monopoly on the traffic?

3 MR. MONTAGUE: The point we are trying to make  
4 is wherever we are in a position to get more than our  
5 fully distributed costs, then there is a monopolistic  
6 element in that particular haul.

7 Q. I suggest to you that that does not follow  
8 at all, I suggest all that it means is that your costs  
9 are less than the competitor, actual or potential costs  
10 for services.

11 MR. MONTAGUE: In which case we have a  
12 monopoly due to this competitive factor.

13 Q. But there is not a monopolistic element  
14 because the competition which is there cannot meet your  
15 costs and that is an economic advantage rather than a  
16 monopolistic advantage.

17 MR. MONTAGUE: We were not using "monopoly"  
18 in the -

19 Q. In the economic sense?

20 MR. MONTAGUE: In the unpopular sense of  
21 being a bad thing. We say by our position, economic  
22 or for any other reason, we are in a monopolistic  
23 position with regard to that particular load.

24 Q. What you mean is with regard to that  
25 particular load you have an economic cost advantage as  
26 compared to your competitor?

27 MR. MONTAGUE: That may be one of the explan-  
28 ations for the situation.

29 Q. Very well. Now, I would like to turn to  
30 page 4.2 again - I think I am in matters that Mr. Montague  
deals with. On page 4.2 he has a table and a chart and





1  
2 my question on this matter for the assistance of the  
3 Commission is, you show figures and a chart of the  
4 railway horizontal rate increase and the actual level of  
5 railway rates. Now, Mr. Brazier examined you in  
6 volume 62 at page 11075 and the following page and you  
7 agreed that the average revenue per ton mile index in-  
8 cluded the grain moving to export positions in western  
9 Canada. You agreed that if the statutory grain were  
10 eliminated the line on the chart would be higher, those  
11 two lines would come closer together, but you said that  
12 it would not be too significant for the purposes for  
13 which you have shown these lines on the graph. Do  
14 you remember those answers?

15 MR. MONTAGUE: Yes, I remember that.

16 Q. I have not the figures for all Canadian  
17 railways but I have the figures for Canadian Pacific  
18 on a revenue per ton mile basis. Would you be  
19 surprised if these figures for Canadian Pacific showed that  
20 the index including statutory grain rates would be 156  
21 for the year 1958 with grain as you have it, but that  
22 would increase to 194 if grain were excluded so that  
23 the two lines, the permissible and the actual would move  
24 very close together. You have it at about 208 or some-  
25 thing of that nature and I figure it at 194.

26 MR. MONTAGUE: Yes, but you would have to  
27 do the whole line, you would have to start from a base.  
28 This is what you are presuming, is it, that this traffic  
29 has been moved out since the past year?

30 Q. That is right.

MR. MONTAGUE: I would have to give that some







1  
2 consideration.

3 Q. But if the statistical assumption I have  
4 made in adjusting that graph were correct, then the lines  
5 would be very close together, that is a necessary  
6 result of applying it in that way, is it not?

7 MR. MONTAGUE: I do not know if I understand  
8 your question.

9 Q. I am leaving the average revenue per ton  
10 mile to include grain, taking the same percentage  
11 increase as have been authorized by the Board or I will  
12 put it the other way, by excluding from the two lines  
13 the grain traffic and only using the traffic to which the  
14 percentage increases could be applied.

15 MR. MONTAGUE: And you are suggesting that  
16 the lines run roughly parallel?

17 Q. That is right.

18 MR. MONTAGUE: I am quite surprised to hear  
19 that.

20 Q. Would you, for the assistance of the  
21 Commission in following up the point raised by  
22 Mr. Brazier, try to rework it and see if that is so  
23 and advise the Commission through the Secretary?

24 MR. MONTAGUE: We will do what we can.

25 Q. Now, Mr. Magee, I think I am back to  
26 you and this is my second to last point. Page 6.5,  
27 paragraph 12, here is where you talk about Mr. Turgeon's  
28 views as to ease of entry and exit into the industry.  
29 You say that might have been true when Mr. Turgeon  
30 made that observation but viewed in retrospect it is  
submitted that he erred, that is, that the learned





1  
2 Mr. Turgeon erred. In light of that I have one or two  
3 questions that I think may be of assistance. It is  
4 your view, as you place it there, that it is definitely  
5 not true that there is ease of entry and exist in the  
6 trucking industry. Now, I have --

7 MR. MAGEE: There is ease of entry into the  
8 trucking industry but that is just a beginning of the  
9 story. What can happen to a truck line if it gets into  
10 business?

11 Q. Well, I would like you to agree with me  
12 that it is very easy to get into the trucking industry  
13 even where entry is controlled. I have in my hand,  
14 as you will recognize, the report of the Ontario Department  
15 of Transport and would you have any idea as to the  
16 percentages of applications allowed in whole or in part  
17 under the Public Commercial Vehicles Act for 1958 and  
18 1959 as published by the Ontario Highway Transport Board  
19 statistics?

20 MR. MAGEE: I think it would probably run over  
21 80 per cent, maybe more than that.

22 Q. You are very close, it is 84 per cent in  
23 1958 and 78 per cent in 1959 and under the Motor Vehicle  
24 --

25 COMMISSIONER MANN: Are these broken down  
26 by categories of licence, the A carrier and C carrier?

27 MR. SINCLAIR: Yes, I have it worked --

28 COMMISSIONER MANN: Have you one for class A?

29 MR. SINCLAIR: Yes. Under the Public Commercial  
30 Vehicles Act 55 total applications made. This is exclud-  
ing transfers for 59, granted in part -- 50; in full --







1  
2 5; totalling 55 of 59, so you have a percentage very much  
3 in excess of 95. That is for A and I can go on further.  
4 D, for instance, that is the contract carriers as I  
5 recollect the statute, 240 granted in full; 53 in part;  
6 55 reduced; that would be 108 to 348; that is 55 in  
7 348, again a very high percentage.

8 COMMISSIONER MANN: Perhaps you could put the  
9 C carrier in.

10 MR. SINCLAIR: C contract carrier total, 39;  
11 granted in full, 30; in part 7; reduced, 2. Similar  
12 figures for 1959, class A: Granted in full, 63; in part,  
13 7; dismissed 15; that is 82 per cent of the applications  
14 granted in part or in full.

15 D, 81 per cent granted in part or in full.  
16 C, 92 per cent granted in part or in full in 1959.

17 MR. MAGEE: Were you asking me to comment on  
18 that?

19 Q. I am going to ask you, to point out to  
20 you that the statistics show of the applications made  
21 very few are refused?

22 MR. MAGEE: Yes.

23 THE CHAIRMAN: Well, what does that mean to  
24 the Commission?

25 MR. SINCLAIR: I think it means this, in the  
26 very highly developed trucking that has existed in Ontario  
27 in the last few years there have been numerous applications  
28 and practically all applications, even where entry is  
29 controlled, are accepted.

30 THE CHAIRMAN: So does that mean that consider-  
ation is not given to the issuance of that report?







1  
2 MR. SINCLAIR: I say it indicates substantial  
3 ease of entry into the trucking industry even where it  
4 has been established as in Ontario for a good many years.

5 MR. HUME: Of course, my friend is referring  
6 to ease of entry only from the viewpoint of obtaining the  
7 necessary permit and that from the statistics appear to  
8 be percentagewise. The brief in sections 12 to 14 is  
9 talking about not ease of entry in terms of getting a  
10 permit but in terms of getting the required capital  
and getting the necessary organization together.

11 MR. SINCLAIR: The balance of the story  
12 is that many of these were opposed by other carriers.  
13 For instance, in 1958 there were 24 oppositions of other  
14 carriers on A's and 153 on D's and 17 on C's and you  
15 can take the statistics out. In view of the point  
16 raised by my friend you would agree that the very large  
17 proportion of carriers, for-hire carriers are small  
18 carriers, that is, having less than, we will say, 5  
trucks.

19  
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29 -  
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1  
2 MR. MAGEE: The majority of them are small  
3 carriers, Mr. Sinclair.

4 Q. Let's not quibble about this. It is  
5 the very large majority.

6 MR. MAGEE: Is the word "majority" quibbling?

7 Q. No, the very large majority. It would  
8 be something over 75% of small carriers.

9 MR. MAGEE: I don't know the figure, but  
10 I think the word "majority" would cover 75%. And  
11 I would like to say this, Mr. Sinclair, if I may.

12 Q. Certainly.

13 MR. MAGEE: That it is not just the question  
14 of the ease of exit and entry. When you are looking  
15 at the regulatory picture - and the Canadian Pacific  
16 is in a position of studying these matters, and I  
17 think they know about this - it depends on the attitude  
18 of the provinces on how operators are let into the  
19 field, and if you have undesirable operators flooding  
20 in they don't last too long and they are gone, but  
21 they do a lot of damage to themselves and they do  
22 a lot of damage to other people before they are gone.

23 Q. I think there would be general agreement  
24 on that, Mr. Magee. The place where there is the  
25 largest per capita in trucking in Canada is Alberta,  
26 and you have shown by your brief, and I think it  
27 would be agreed, that the turnover of trucking organ-  
28 izations in that province is higher than any provinces  
29 where entry is controlled. Is that the point you are  
30







1  
2 making?

3 MR. MAGEE: Yes, quite right, Mr. Sinclair.  
4 It is a very serious problem there.

5 Q. I would like to turn to page 7.2 of  
6 your brief.

7 MR. MAGEE: Yes.

8 Q. I think these questions should be  
9 directed to Mr. Montague, but if not, you can answer  
10 them. Paragraph 7: you would agree that if a service  
11 produces revenues which cover at least the variable  
12 costs, discontinuance would not improve the overall  
13 net revenue position of the carrier.

14 MR. MONTAGUE: I would agree with that.

15 Q. Then you would also agree, I take it,  
16 Mr. Montague, that an unprofitable or a loss service  
17 is a service which produces less than its variable  
18 costs and not a service which produces less than  
19 fully allocated costs.

20 MR. MAGEE: Are we getting into the problem  
21 of defining the word "compensatory"? - Because it  
22 came up the other day, and we realize we haven't  
23 given any answer to it. Is that what you are dealing  
24 with here or coming to?

25 Q. No, it is dealing with variable costs  
26 and what is profitable and what is not profitable.  
27 But if you want to tie it in also with that and amend  
28 that in any phase you have, I will be very glad to  
29 accept it in that way.

30 Thank you very much, Mr. Magee. I think





1 that is all I have for you, and I appreciate your  
2 patience, and I must say that I think the trucking  
3 organizations of Canada are fortunate to have you  
4 come here and answer questions which are put by people  
5 such as myself who have a job to do such as you have,  
6 and we appreciate having an opportunity of asking these  
7 questions.  
8

9 MR. MAGEE: I enjoyed your cross-examination,  
10 Mr. Sinclair, but I am glad it is over.

11 THE CHAIRMAN: Commissioner Balch?

12 COMMISSIONER BALCH: No questions.

13 THE CHAIRMAN: Commissioner Gobeil?

14 CROSS-EXAMINATION BY COMMISSIONER GOBEIL:

15 Q. Mr. Magee, under section 4 on truck  
16 competition, on page 4.4, Mr. McDonald asked you  
17 the definition of "pseudo-competitive" which you use  
18 there in paragraph 11.

19 MR. MAGEE: Yes.

20 Q. And you said something like this,  
21 I believe, that it is that which appears in the  
22 disguise of competition, but which would not give the  
23 carrier a chance or would put him into bankruptcy or  
24 out of business.

25 MR. MAGEE: I believe I said that, Mr.  
26 Commissioner.

27 Q. In view of the 30% reduction in  
28 connection with the Maritime Freight Rates Act  
29 for traffic going out and the 30%, would you not consider  
30







1 in the Maritimes those rates as pseudo-  
2 competitive?

3  
4 MR. MAGEE: Well, Mr. Commissioner, we  
5 have certainly spoken out strongly in our submission  
6 against the inclusion of the Maritime Freight Rates  
7 Act subsidy for the railway competitive rates in  
8 the Maritime provinces. I think that is, indeed,  
9 a situation where the truck operators must meet  
10 that competition, and they know that the rate that  
11 the railway charges contains the remuneration which  
12 will come through the subsidy, and they know that  
13 their own rate will not contain such remuneration.

14 Q. That is on the face value it will  
15 look competitive and at the same time it is not  
16 at all because they know they will get either 20%  
17 or 30%.

18 MR. MAGEE: Oh, yes, they know they  
19 are going to get that, Mr. Commissioner.

20 Q. That might be one of your definitions  
21 of "pseudo-competitive" rates, or wouldn't be.

22 MR. MONTAGUE: Well, in the sense that  
23 when we use a pseudo-competitive rates we are particu-  
24 larly referring to a practice that would be independent  
25 of any subsidy question, that is where our carrier  
26 said, under the guise of competition: "I am going  
27 to put in a very low rate here," and in his secret  
28 mind he had really made up his mind he was going to  
29 get rid of his competition. In regard to the  
30 Maritime freight rates movement, I agree there is







1  
2 a pseudo-competitive quality about it, but it is  
3 not in that sense we were using the term; we were  
4 restricting it to an operator who had put in a low  
5 rate on a commodity in the guise of competition really to  
6 do away with his competition.

7 Q. Going to Mr. Hume's table, in the same  
8 section, on page 4.11b in the western to eastern  
9 you give under statutory rates .23. I always thought  
10 that a statutory rate was half a cent. What is the  
11 .23 there?

12 MR. MONTAGUE: This is, of course, calculated  
13 from the Weigh Bill Analysis, and there are a number  
14 of things which could affect that. But this was  
15 just taken directly from the Weigh Bill Analysis.  
16 I could try and find an explanation of why there  
17 was a movement there for you, but I have not done  
18 so to date. I would have to look at it very carefully.

19 Q. But this would indicate that there  
20 may be some grain moving at a quarter of a cent.

21 MR. MONTAGUE: In reality, of course, there  
22 is no western to eastern grain moving at the statutory  
23 rates, and what we came up against there was that in  
24 some instances there is a combination movement, and  
25 we found it very difficult to take it out of the  
26 total movement, so we showed it as being western to  
27 eastern. But, in fact, there is no western to  
28 eastern movement under statutory rates; it all ends  
29 at Port Arthur or at the western division line.  
30





1  
2 Q. Which I doubt you consider as eastern.

3 MR. MONTAGUE: Yes. So it is really just  
4 a trick of trying to break this down. We came up  
5 against this combination movement, so rather than  
6 not show it at all we showed it as part of the  
7 western to eastern movement, and in that sense it  
8 is highly suspect, but we have shown it because  
9 that was consistent with the way we were analyzing the  
10 rates. Actually there is no movement under statutory  
11 rates from west to east.

12 Q. In the other table 4.11d, Mr. Mauro  
13 and Mr. Brazier brought what looks to me interesting  
14 figures. Mr. Mauro called attention that on western  
15 to western there was almost 80% of the traffic  
16 moving at non-competitive prices, and Mr. Brazier  
17 calculated the average of non-competitive commodities  
18 for 1958, and he also showed a high percentage for  
19 the Maritimes and western to western. This  
20 non-competitive, Mr. Magee, I understand is supposed  
21 to be captive traffic, and there are two kinds of  
22 captive traffic: one because there is no other way  
23 of transportation.

24 MR. MAGEE: Yes.

25 Q. And there is another captive traffic  
26 which is captive because it is so that the truck  
27 cannot take it. Well, that will be the case of the  
28 statutory grain. It is so low that you cannot touch  
29 it.  
30







1  
2 MR. MAGEE: As they stand now, that is  
3 quite correct.

4 Q. As a matter of fact, it is better  
5 than competitive traffic.

6 MR. MAGEE: Yes.

7 Q. If you look at Mr. Brazier's percentage,  
8 you see for the Maritimes on non-competitive it  
9 runs above 80%, and in western to western, according  
10 to Mr. Mauro, it was nearly 80%, and Mr. Brazer said  
11 77%. Would it not be possible that the reason that the  
12 percentage of commodity non-competitive is so high  
13 is because those regions have too good a deal, that  
14 there is nothing to compete with in the Maritimes?  
15 There is the Maritime Freight Rates Act, and in  
16 the west there is the statutory rate, and there  
17 is nothing to compete with, so it makes a high per-  
18 centage of non-competitive traffic.

19 MR. MAGEE: I am going to let Mr. Montague  
20 deal with the western situation. I must say, Mr.  
21 Commissioner, although the Maritime freight rates  
22 subsidization exists and has been in operation since  
23 1927, the trucking industry in the Maritime provinces  
24 has managed to develop, and we are competing with the  
25 railroads there under those conditions. We agree,  
26 as we stated in our brief, that the Maritime Freight  
27 Rates Act, or we contend in our brief that the Maritime  
28 Freight Rates Act is one factor which is holding  
29 down the development of the trucking industry in the  
30





1  
2 Maritime provinces. Now, in the western --

3 Q. How would you explain that in the  
4 Maritimes and in the west the non-competitive traffic  
5 is so high, it is nearly 80%?

6 MR. MAGEE: Mr. Montague is the man who made  
7 these studies for us.

8 MR. MONTAGUE: We have never denied  
9 that there is a very high proportion of freight moving  
10 in these areas which is non-competitive. What we  
11 have said that if you look back as far as 1949 you  
12 will find the situation was even worse then, and there  
13 has been a steady improvement and a steady growth in  
14 the amount of competitive traffic in both these areas,  
15 and we have developed an argument which says that this  
16 is due to the presence of the trucking industry, the  
17 fact that there is now, even though these areas are  
18 still subject to a high percentage of non-competitive  
19 rates, a growing development of competitive rates, and  
20 this is due to the trucking industry. We don't deny  
21 that things have been cured as yet, but what we said  
22 that there is a cure going on, and we caution you  
23 not to take actions which would prejudice that cure.  
24 We say that the situation has improved over the years,  
25 and in 1950 it is better than it was five years ago  
26 or ten years, and that was because of the presence  
27 of the trucking industry. On page 4.11d, looking at  
28 western to western, agreed charges, for instance,  
29 1949, the figures run from 97,956 to 660,954 in 1958.  
30 We have shown that there has been quite a remarkable







1 growth in this traffic, and it is not yet at the stage  
2 where we can say forget the whole position, but it  
3 has reached the situation where we can say take this  
4 into account.

5 Q. You mean to say that the fact that there  
6 is not too much competitive traffic in the Maritimes  
7 as in the west is simply due to the fact that the  
8 trucks have not developed there as much as in the other  
9 parts of the country?

10 MR. MONTAGUE: That is what we are saying.  
11 It has developed; it came first in central Canada, and  
12 it is now spreading to other parts of Canada, and we  
13 see the time when truck competition will be able to  
14 assist in any dis-balance that is caused by a high  
15 percentage of non-competitive rates in these areas in  
16 Canada. We say that in time the trucking industry  
17 will ameliorate that situation.

18 Q. Correct me if I am wrong -- you see, in  
19 the Maritimes your percentage of non-competitive traffic  
20 is over 80 per cent, in the Maritimes, or Maritimes  
21 to eastern or eastern to Maritimes. On the other  
22 hand, western to western, Mr. Mauro used the 80 per  
23 cent percentage, and Mr. Brazier used 77 per cent.

24 But if you have a statutory rate which is a rate better  
25 than the competitive, if you include it with the  
26 competitive, you come up with 22.6 of non-competitive  
27 rate, and if you look at your Table 5.11 you have a  
28 table there which shows that the development of the  
29 trucks has been twice as good in Alberta as there was  
30







1  
2 anywhere else, and while in Saskatchewan it is almost  
3 as good as in Ontario and better than Quebec, and  
4 Manitoba is still better than Quebec. So it would  
5 explain my 22 per cent if you put it that way, that  
6 the west is highly organized as far as truck competition  
7 is concerned, whereas if you take the figures the  
8 other way the competition will be better in the west  
9 than it is in the east or in the Maritimes or in the  
10 central regions. It would make sense to your Table  
11 5.11.

12 MR. MONTAGUE: If I am correct in understanding  
13 what you are saying, sir, it is that there are  
14 differences between the various percentages as shown  
15 here, even outside of central Canada, and you are  
16 asking why these differences are there. I agree the  
17 differences are accounted for by the different develop-  
18 ments of the trucking industry in these areas. I  
19 haven't covered your question about the grain rates,  
20 but perhaps the best way to handle it would be that  
21 when I go over the transcript I could get a better  
22 answer for you.

23 Q. If the statutory rate is better than  
24 competitive, then there is no competition. If you  
25 include them, then you have only 22 per cent of com-  
26 petitive traffic, and that low percentage, which would  
27 be the lowest in all Canada, could be explained by  
28 your Table 5.11 whereby you say that the trucking or-  
29 ganization in the west is the best in Canada or the  
30 one which has developed best.

(Page 11585 follows)





1  
2 MR. MONTAGUE: Yes, this would be satisfactory  
3 from the point of view of Alberta, but then, Manitoba  
4 and Saskatchewan --

5 Q. ---is still better than Quebec, on your  
6 table?

7 MR. MONTAGUE: Yes, still better than Quebec,  
8 but still not as highly developed as Alberta.

9 Q. But almost as good as Ontario and better  
10 than Quebec?

11 MR. MONTAGUE: I think, certainly, you have  
12 a point, sir. At the present time I would like to  
13 think it over before I give you a proper answer on it.

14 Q. Mr. Magee, Mr. Cooper asked you, on  
15 page 4.17, paragraph 54, in the middle of the paragraph  
16 -- you say,

17 "If this is the case, any program of regional or  
18 sectional assistance should be implemented in  
19 such a way as not to disturb the workings of  
20 natural competitive forces."

21 Mr. Cooper asked you what you meant by that,  
22 and you said it can be done by subsidization?

23 MR. MAGEE: Yes.

24 Q. And you also add that when you talk of  
25 subsidy you talk of subsidy to the shipper. I think  
26 it was discussed later on, but I didn't quite get the  
27 point. How could you apply the bridge subsidy to the  
28 shipper?

29 MR. MAGEE: Well, as we understand the bridge  
30 subsidy, it is a subsidy that assists the shipper in  
regard to the trackage that runs through the rather







1  
2 barren area across the bridge, and the railways are the  
3 instrument by which the subsidy is paid and by which the  
4 assistance is given. Our point in the submission is that  
5 we are getting an increasing number of freight rate  
6 reduction subsidies in Canada which require a reduction  
7 of railway rates for the assistance of the shippers, and  
8 for which the railways are compensated by the federal  
9 government, and we say that the time has come when the  
10 existence of the trucking industry should be taken into  
11 account and where these rather single minded chosen  
12 instrument subsidy policies should have regard for the  
13 interests of forms of transport that compete with the  
14 railways and are also important forms of transport in  
15 Canada.

16 Q. You use the word "compete": I under-  
17 stood that the bridge subsidy was like the \$20 million  
18 subsidy --- that is, a subsidy which is given to class  
19 rates and non-competitive rate, isn't it?

20 MR. MAGEE: Well, as I understand the pro-  
21 visions in the Railway Act in regard to the bridge  
22 subsidy, there is no limitation on the way the subsidy  
23 is administered by the Board of Transport Commissioners in  
24 regard to, for example, competitive rates and agreed  
25 charges. It is only that the Board of Transport  
26 Commissioners has chosen, since the bridge subsidy  
27 went in, to limit its orders requiring a reduction of  
28 freight rates to the non-competitive rates of the rail-  
29 ways, but there is nothing in the Railway Act that bars  
30 the Board of Transport Commissioners tomorrow from ex-  
tending the rate reductions under the bridge subsidy to





1  
2 traffic carried at competitive rates and agreed charges,  
3 as well as non-competitive traffic.

4 Q. That is my mistake. I thought it was  
5 only the class rate and non-competitive, because, if so,  
6 I was wondering how, if you enter into the picture, and  
7 it is given to the shipper, then you are competitors,  
8 and if the subsidy is made for non-competitive rates,  
9 I could not see how you would come in.

10 MR. MAGEE: I am glad you have raised the  
11 point, Mr. Commissioner. We were considering that,  
12 even if the statute directed the Board that the reductions  
13 could be made only to non-competitive rates, that, in  
14 principle, that subsidy should not be confined to the  
15 railways because of the fact that the non-competitive  
16 traffic of the railways, which used to be a very  
17 large segment, is shrinking constantly under the impact of  
18 competition and is potentially competitive. I can't  
19 recall the actual figure, but one-third sticks in my  
20 mind in regard to the revenues, I think it is, that are  
21 now accounted for by non-competitive rates. Anyway,  
22 there has been, according to the Board of Transport Com-  
23 missioners, a continuous diminution of the number of com-  
24 petitive rates in Canada. They are being replaced by  
25 competitive rates and agreed charges as a result of the  
26 competition of the trucking industry.

27 Q. But if the statute were, as I thought,  
28 applying only to class rate and non-competitive rate,  
29 so that you could benefit by that, the statute would  
30 have to be changed, because automatically the minute you  
come in there is competition?







1  
2 MR. MAGEE: Yes, but if the argument that this  
3 traffic that remains is non-competitive traffic is traffic  
4 which is beyond the reach of the trucking industry, little  
5 of it would be carried by the trucking industry even  
6 if we were eligible for the subsidy. That theory is  
7 true. But, we say that in a private enterprise economy  
8 that the increasing number of subsidies that are freight  
9 rate reduction subsidies, but directed only to the rail-  
10 ways, pose, I would say, an immediate threat to the  
11 trucking industry, and, certainly, in the long term a  
12 very serious threat to the trucking industry because the  
13 more of these that go in the more we are going to be  
14 faced with the several precedents on the statute books  
15 of paying out the subsidies, using the railways as the  
16 chosen instrument, and we are going to be told, "This is  
17 the kind of situation we live under in Canada and that  
18 we have lived with, and what are you truckers getting  
19 excited about? It is just another subsidy. You are  
20 not hauling it at the present time, so don't be upset  
21 about it; you haven't got it, anyway." We say we may  
22 have it tomorrow or the day after, and we say if  
23 Canada is a private enterprise country we should have the  
24 right to compete for it tomorrow and the day after.  
25 That is our position.

26 Q. In this subsidy business on page 5.11,  
27 paragraph 24, you say:

28 "It is a difficult matter to prove how the low rail  
29 rates for intra-maritime shipments have harmed the  
30 trucking industry...."

Do you think that as far as the trucking industry







1  
2 is concerned the intra shipment for the truck has been  
3 more than the extra shipment -- that is, outside the  
4 preferred area or preferred zone?

5 MR. MAGEE: It is hard to tell. We have never  
6 made that definitive a study of the situation, but normally  
7 the long haul trucking operations are the more difficult  
8 operations to conduct, and certainly the westbound inter-  
9 provincial subsidy has its impact on the long haul section  
10 of the trucking industry. It is a factor.

11 Q. As far as the extra traffic is concerned,  
12 that table at 11 (d) would seem to indicate that the  
13 trucking industry is more affected by the traffic going  
14 outside -- extra -- because the percentage given by  
15 Mr. Brazier is higher, but I think it would be of  
16 interest for the Commission -- you see, you said somewhere  
17 that your revenue in dollars compared to the railways --  
18 I think it was 34 or 35 per cent; that is for Canada.  
19 Maybe, it would be possible to obtain what it is for  
20 the maritimes extra traffic. If it is 10, then we will  
21 see what is the impact on the trucking industry. Do  
22 you think, Mr. Montague, that you could find something  
23 like that?

24 MR. MONTAGUE: Yes, we will try and see what  
25 we can develop for you, sir.

26 MR. MAGEE: Yes, we will take a look at that,  
27 Mr. Commissioner, and give the Commission our views on it  
28 if we can. I think we will be able to develop something.

29 Q. Again, on subsidization on page 5.16, --  
30 Quebec had a nice time there with that 17 per cent.  
I don't see exactly what all the fuss is about.





1  
2 MR. MAGEE: You are referring to another  
3 submission, I think.

4 Q. I am referring to paragraph 36 on which  
5 Mr. Mauro asked you plenty of questions.

6 MR. MAGEE: Oh, yes.

7 Q. And Mr. McDonald too.

8 MR. MAGEE: Yes.

9 Q. What you mentioned there about the  
10 Quebec trucking you obtained from a questionnaire that  
11 you sent to all your members?

12 MR. MAGEE: No, that was obtained from a report  
13 given to us by the Trucking Association of Quebec.

14 Q. You did not canvass the other provincial  
15 trucking associations?

16 MR. MAGEE: Yes, we did, Mr. Commissioner.  
17 What we did last year when the \$20 million subsidy was  
18 mooted, and then instituted, was, we did conduct then  
19 a questionnaire of all the provincial trucking associa-  
20 tions in Canada to find out what impact, if any --  
21 immediate impact there would be as a result of the  
22 \$20 million subsidy. The reason we did that was that  
23 we were making preparations to appear before the standing  
24 committee on railways, canals and telegraph lines and  
25 oppose the subsidy, and we wanted the information. We  
26 intended to oppose it whether the impact was only potential  
27 rather than actual.

28 Q. That is an expression that you used with  
29 Mr. McDonald?

30 MR. MAGEE: Yes.

Q. I disagree with you; you represent very







1  
2 badly the trucking industry there, I think.

3 MR. MAGEE: In what way?

4 Q. When you say it is more potential than  
5 actual. However, excuse me if I interrupted you.

6 MR. MAGEE: Yes, I was going to tell you  
7 about the results of the questionnaire. We received  
8 replies from all of the provincial trucking associations  
9 in Canada, detailed reports from each one in regard to the  
10 impact of the \$20 million subsidy. We received no  
11 information from any associations, with the exception of  
12 Ontario and Quebec, that there would be any immediate  
13 impact from the \$20 million subsidy. The Automotive  
14 Transport Association of Ontario, through their general  
15 manager, Mr. Goodman, who was at the hearings here last  
16 week, spent four days in an examination of railway tariffs  
17 and came up with four rates out of tens of thousands of  
18 rates where it could be proved that the \$20 million  
19 subsidy would have an immediate impact on truck rates --  
20 and I mean by "immediate impact" that the reduction  
21 caused by the subsidy would actually bring about a col-  
22 lission with an existing truck rate. We received from  
23 the Truck Association of Quebec a report on the impact of  
24 the \$20 million subsidy, in writing, and that was very  
25 carefully examined by our staff and we found out that  
26 the tariffs which they had quoted in their report to  
27 us -- and this could well be the fault of my own office  
28 in not making some of the intricacies of the matter  
29 clear to them -- were not non-competitive tariffs; they  
30 were motor-truck competitive tariffs and, as such, under  
the law were not eligible for the subsidy. That report





1  
2 reached my office 24 hours before the parliamentary  
3 hearing began in April, 1959, and when we actually went  
4 before the committee we had no concrete information,  
5 other than the four instances given to us by Mr. Goodman,  
6 of any immediate impact from the subsidy. On the third  
7 of March of this year I was in Montreal at a meeting with  
8 Mr. Archambault, and he showed me a new list of tariffs  
9 which I had not seen before and which were, according to  
10 him, railway non-competitive tariffs and which conflicted  
11 directly with truck rates in the province of Quebec.  
12 In other words, the \$20 million subsidy affected these  
13 truckers in the particular areas, and on the basis of  
14 that information this statement was made in the submission,  
15 and we intended to ask Mr. Archambault, after we had  
16 filed the submission, for the supporting information so  
17 we could present it to the Commission, and that was when  
18 I discovered Mr. Archambault was in Europe. However,  
19 we are going to make a study in Quebec; we are sending  
20 Mr. Montague to Quebec and he is going to make a study  
21 in detail in reply to the questions asked by Mr. Cooper:  
22 What were the railway tariffs that conflicted with the  
23 truck rates; what were the truck tariffs that were  
24 affected that were in existence in Quebec at the time;  
25 and, what was the loss to the truck operators. That  
26 information will be submitted to the Commission and to  
27 those parties to the inquiry.

28 Q. I think the other provinces, except Quebec  
29 and maybe Ontario -- because you referred to Ontario --  
30 were much wiser, and they had no time to lose, because  
it seems to me there was no need for an answer; it was







1  
2 evident that the truck was losing by this subsidy, and  
3 when Mr. Mauro cross-examined you, here is the note I  
4 took ---

5 MR. MAGEE: Mr. Commissioner, you said it was  
6 evident this would affect the trucks?

7 Q. Oh yes, it seemed to me it was definitely  
8 evident, and I took these notes when Mr. Mauro cross-  
9 examined you. This subsidy was given to take care of  
10 -- and you argued a little bit with him about that --  
11 but it was given to take care of most of the people  
12 -- a wage increase.

13 MR. MAGEE: Yes, that is right.

14 Q. Well, you have the same wage increase  
15 as the railways?

16 MR. MAGEE: Oh, very definitely.

17 Q. The only difference is that you have many  
18 thousands of truckers, and you can't agree together,  
19 but there are only two railways, and some of the truckers  
20 would say that they needed a wage increase, and others  
21 would not, and you don't have your rate increase.

22 MR. MAGEE: No.

23 Q. There are only two railways, and there is  
24 nothing wrong with that.

25 MR. MAGEE: Yes.

26 Q. And the same with the Great Lakes?

27 MR. MAGEE: Yes.

28 Q. So, you put up the umbrella to take care  
29 of the increase and you raise the salaries.

30 MR. MAGEE: Yes.

Q. Well, that is normal and correct.







1  
2 MR. MAGEE: Yes.

3 Q. If the railways were justified to have  
4 17 per cent, then the trucks were justified too, because  
5 they should have had the same wage increase.

6 MR. MAGEE: Yes, but the problem I was con-  
7 fronted with in going before the parliamentary committee  
8 was this: Suppose I had said -- and we have to  
9 remember that this subsidy affected only the non-  
10 competitive rates of the railways.

11 Q. Yes.

12 MR. MAGEE: The non-competitive rates of the  
13 railways in nearly all parts of Canada are far in  
14 excess of any of the existing truck rates --- far in  
15 excess of them.

16 So, the problem I was confronted with, if I  
17 had gone before a parliamentary committee and said this  
18 \$20 million has caused a reduction or will cause a  
19 reduction of a certain percentage of the truck rates,  
20 and it is to have an immediate impact or a collision,  
21 the first thing I would be asked before the parliamentary  
22 committee would be, "Give me the number of the tariffs,  
23 the railway tariffs, and give me the number of the  
24 truck tariffs where this collision would take place."  
25 That was the question I addressed to the provincial  
26 trucking associations across Canada.

27 Q. But my reasoning is much simpler than  
28 that, and I am not trying to trap you. But, if the  
29 railways were justified to ask for 17 per cent increase  
30 on account of wage increases, you were too.

MR. MAGEE: Yes.





1  
2 Q. And they got their 17 pe cent increase?

3 MR. MAGEE: That is right, sir.

4 Q. And then, for the shipper, it was  
5 reduced?

6 MR. MAGEE: Yes.

7 Q. But the railways were compensated and they  
8 got their 17 per cent, while the truck business says they  
9 didn't have any subsidy -- they had to be content with  
10 10 per cent, which was the final increase of the railways;  
11 am I right?

12 MR. MAGEE: No, in most parts of the country  
13 the truck rates went up, but they would be going up under  
14 an umbrella of railway competitive rates, not under an  
15 umbrella of railway non-competitive rates. I know it  
16 cannot be demonstrated in the transcript, but the  
17 umbrella of the railway-truck competitive rates would be  
18 there (indicating) and your truck rates would be  
19 somewhere around there (indicating) or under it or up  
20 above it, or close to it, anyway. On top of that you  
21 have got the non-competitive rates far above. Most  
22 of the truck rates were not in this sphere at all.  
23 They were down there, sir.

24 Q. But you don't think these so-called non-  
25 competitive rates can be competitive?

26 MR. MAGEE: Well, we have said in our  
27 submission -- yes, I agree with you, that essentially  
28 they can be competitive, but let me put it another way,  
29 Mr. Commissioner: Suppose I had gone into the province  
30 of Manitoba and called a meeting of the truckers and  
said, "Now, tell me, gentlemen, how many of you had to







1  
2 reduce your rates when the railway rates came down under  
3 the \$20 million subsidy?" The report I got from our  
4 association there was that practically no one in the room  
5 would have said they were even affected, because their  
6 rates were far below -- the truck rates were far below  
7 the railway non-competitive rates. The truck rates  
8 were at the umbrella of the railway competitive rates  
9 and the railway agreed charges, and they are much lower  
10 than these non-competitive rail rates -- much lower.

11 Q. I will make it simpler than that. Wasn't  
12 it the case that the railways were asking for 17 per  
13 cent?

14 MR. MAGEE: Yes.

15 Q. And they got their 17 per cent because  
16 of the \$20 million subsidy?

17 MR. MAGEE: Yes.

18 Q. But, in fact, it was reduced for the  
19 shipper by 17 per cent?

20 MR. MAGEE: Yes.

21 Q. And since the trucks did not get the  
22 subsidy, they lost 17 per cent; isn't that what it is --  
23 no?

24 MR. MAGEE: I don't think I can answer in the  
25 affirmative, Mr. Commissioner, except in the examples I  
26 have given. We will take another look at this,  
27 Mr. Commissioner, but I know that I can say that generally  
28 they would not have been affected, and that all of the  
29 rates originally quoted to me in the written report I  
30 got from Quebec last year were motor-truck competitive  
tariffs which supposedly had been reduced by the subsidy,





1  
2 but under the Freight Rates Reduction Act, those rates  
3 were not eligible for the subsidy, so if those rates  
4 were reduced it did not come about as a result of the  
5 subsidy. There is only \$20 million to spend, and I  
6 think the railway freight revenues were over \$1 billion.  
7 So, to spread the \$20 million out -- it has got to be  
8 confined to one segment of the railway freight rate  
9 structure, otherwise it is all dispersed and nobody  
10 sees any of it, and they are not happy about it at all.  
11  
12  
13  
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MR. HUME: Mr. Chairman, may I take this opportunity to put on the record the recalculated table as requested by Mr. Sinclair this morning? At page 10518, line 20, the word "not" should be removed so that the transcript says that the tonnage of freight moved by urban trucks does appear to have been calculated. The table appears at page 10521 and is a recalculation of the figures for 1957 based upon the percentage breakdowns that were done by D.B.S. for 1958. I propose to give this to the reporter and have these taken into the record at this time.

THE CHAIRMAN: That is all right.

1957 RAILWAY AND TRUCK TRANSPORT IN CANADA

<u>INDICATOR</u>	<u>RAILWAYS</u>	<u>TRUCKS (FOR HIRE)</u>	<u>TRUCKS AS % OF RAILWAYS</u>
Tonnage Handled('000t)	197,010	89,646	45%
Freight Revenues (\$'000,000)	1,100	339	33%
Ton-miles ('000,000)	71,047	4,434	6.2%

MR. SINCLAIR: At the same time, that figure 294 as shown on the top of page 3.2, that would be, I take it, a percentage reduction, I think 25 per cent off.

MR. MONTAGUE: These figures are duplicated in the table and the figures on the previous pages will be as in the table.

THE CHAIRMAN: Well, the table will be amended.







1  
2 COMMISSIONER GOBEIL: Q. We were on the  
3 \$20 million subsidy, page 5.16 and on the next page  
4 I think this question was asked by Mr. Mauro of Mr.  
5 Montague. Mr. Mauro, I believe suggested that the  
6 \$20 million subsidy was self-liquidating because it  
7 was only a one-year subsidy, but I suspect Mr. Montague,  
8 and I would like you to tell me if I am right, that  
9 what you mean by a self-liquidating subsidy is not  
10 one which is for a definite period of time but it is  
11 one that would correct the situation in a certain  
12 period of time. Am I right?

13 MR. MONTAGUE: That is right. That is  
14 what we were getting at, we object to Mr. Mauro des-  
15 cribing this as being a self-liquidating subsidy.

16 Q. This subsidy then will not be self-  
17 liquidating at all because of the situation that was  
18 there last year is still there.

19 MR. MONTAGUE: We have to consider this, that  
20 it is self-liquidating so far as it won't be there  
21 if the statute is deleted but by its very nature it  
22 is not a self-liquidating subsidy, it is a subsidy  
23 which does not cure an ill.

24 Q. And that is what you understand by a  
25 self-liquidating subsidy?

26 MR. MONTAGUE: Yes, that is correct.

27 Q. Again on subsidy, on page 5.20 Mr.  
28 McDonald asked Mr. Montague about this Crow's Nest  
29 subsidy and how it can apply to trucks and you said  
30 that now there are limitations but maybe in another





1  
2 ten years from now the truck could compete under  
3 Crow's Nest subsidies especially if the subsidy was  
4 given -- that is what you said, I believe?

5 MR. MONTAGUE: That is correct, yes.

6 Q. It means that maybe in ten years, as  
7 you say, the truck may take part of the burden or  
8 advantage of the subsidy, but if the truck cannot take  
9 it all, cannot take 100 per cent of it, it would mean  
10 that the trucking industry would get the best of the  
11 subsidy and the railways will be left with the worst  
12 part of it. That might happen?

13 MR. MONTAGUE: Well, this is the line of  
14 questions that Mr. Sinclair put to us and again our  
15 answer is that if in the view of the people who are  
16 shipping, if that is the view of the people who are  
17 shipping the commodity then we obviously won't get  
18 the shipments.

19 Q. I am a shipper and in view of the fact  
20 that the subsidy is given to the shipper I choose you  
21 for my carrier for part of the traffic you go at a  
22 better rate to me but for the worst part where there  
23 is money lost the railways are obliged to take that  
24 part. What I mean is, you do not have any contract  
25 and they have to stick to the worst part of the  
26 contract.

27 MR. MONTAGUE: I think all this discussion  
28 presumes that the conditions under which the grain  
29 moves today will be the same as the conditions under  
30 which grain moves five or ten years from today. We







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are suggesting that these conditions may change and the burden which the railways now complain of in regard to this movement may not, for various reasons, be present five years from today. If that were the case then we think we would be justified in handling some of this traffic.

Q. But it will not change 100 per cent tomorrow; next year perhaps 15 per cent will change and you can take it and another five years another 35 per cent will change and you will take that -- that would be a total of eight years -- but at the end of that eight years the railway will be left with the most unprofitable and you will get the best.

MR. MONTAGUE: I can give you one hypothetical example of where trucking might move into the field with the blessing of the railway. That is where the railways have requested the abandonment of certain lines and it becomes a question of how the farmer who has been serviced by that line will move his grain to the railway for shipment to the export point. Obviously it has to go by truck, either the farmer's truck -- the farmers complain about that, he says he does not want to bear the extra cost -- or someone else's truck. The railways may get that trucking. On the other hand, it may be possible to have a private firm go in and compete for it but there is a trend which is now taking place in western Canada and which could come into trucking movements. We say that is the kind of thing you have to expect in the movement of





1  
2 our grain products in the next ten years.

3 Q. There are some cases where you will get  
4 the blessing of the railways but in other cases you  
5 will get --

6 MR. HUME: The other thing.

7 Q. Well -- on the agreed charge, Mr. Magee,  
8 on page 6.8, paragraph 24, Mr. Cooper asked you why  
9 you were going for the 50 per cent and your answer  
10 was because you -- you were a little vague about it --  
11 you said because your Board asked you to ask for 50  
12 per cent. Later on Mr. McDonald in cross-examination,  
13 you told him that you did not think that the truck  
14 has the economic trend to make agreed charges like  
15 the railways, that is 75 per cent up to 100 per cent.  
16 Would that not be the reason why you are asking for  
17 50 per cent because you would not get competition  
18 with the 75 per cent?

19 MR. MAGEE: Yes, that is correct. I realize  
20 the way I gave my answer to Mr. Cooper may have left  
21 some misunderstanding. He said, "Why not 75 or 85  
22 per cent?" And I think I answered then, as you say,  
23 because our Board of Directors instructed that it  
24 be 50 per cent. The reason for the limitation that  
25 we are suggesting is to preserve some competition  
26 in the movement of traffic that is affected by agreed  
27 charges and allow some opportunity for truck operators  
28 to compete for that traffic.

29 Q. And at the same time, if it was 75  
30 per cent you could not do it, that is what you said also?







1  
2 MR. MAGEE: That is right, sir, that we would  
3 not have the economic strength to tie the shippers to  
4 that low rate arrangement, to a fixed percentage of  
5 the traffic. I made an exception of two or three truck  
6 lines in Canada that I know of and pointed out that  
7 according to my information they did have, as far as  
8 I can find out, what I would call the railway style  
9 agreed charge, but the vast majority of the operators  
10 are simply not in a position to do that. If they  
11 were in that position they would do it in provinces  
12 where the regulations did not stop them.

13 Q. Under these agreed charges you have your  
14 reasons and the railways have theirs, but thinking  
15 of the public interest, what about the shipper? If  
16 I sign an agreed charge I would like to have the best  
17 advantage and I sign for a per cent I should have a  
18 better deal than 50 per cent and my interests would be  
19 protected. They way you do this I am not protected  
20 any more. The railway would give me a good rate if  
21 I cannot bargain with him more than 50 per cent.

22 MR. MAGEE: Well, our proposal amounts to  
23 leaving the railways with a leeway of 50 per cent  
24 of the particular commodity to bargain for and it  
25 may be that there will continue to be competition in  
26 the direction of that traffic. This 100 per cent  
27 agreed charge advantage, in any of those agreed charges  
28 where it is 100 per cent and which is traffic  
29 susceptible to highway movement, it is traffic that  
30 is sealed off from truck movement and truck competition







1  
2 for the duration of the contract.

3 Q. But I am the loser because I suspect  
4 I will have a better charge if I can give 75 or 100  
5 per cent.

6 MR. MAGEE: You might be the loser.

7 Q. Do you think that is easy to determine?

8 MR. MAGEE: No, I think it is difficult to  
9 determine, Mr. Commissioner, whether the rate is  
10 lower than necessary to meet the competition.

11 Q. You said you would oppose it. Has your  
12 association ever applied to the Board under that  
13 Article? I think you said to Mr. McDonald that some  
14 appeal was done in 1957, but that was not established  
15 on that, it was on the first one, it must be compen-  
16 satory, I believe.

17 MR. MAGEE: No, it was on both. I think we  
18 made an application to the Board of Transport Com-  
19 missioners in 1957 for the disallowance of what was  
20 known as the Western Canadian Incentive Rate which  
21 was a very precipitous rate case made by the railways  
22 in western Canada and many of the order of 40 per cent  
23 and some down over 70 per cent. We made an application  
24 to the Board of Transport Commissioners for the dis-  
25 allowance of those rates on the two grounds, first  
26 of all, that they were not compensatory, secondly,  
27 they were lower than necessary to meet the competition.





1  
2 The next thing that happened was that the  
3 Board of Transport Commissioners held a hearing in  
4 February, 1958, which was confined to the legal question  
5 of whether the trucking industry, under the Railway Act,  
6 had the right to make an application of this type to the  
7 Board of Transport Commissioners, and the Board held  
8 that we were not a party interested and we were, in  
9 effect, out. Then the Board simultaneously, in the  
10 same decision, announced that under its powers it would  
11 conduct an investigation of those rates under its own  
12 motion, and it would permit Canadian Trucking Associa-  
13 tions to appear as a witness, and the hearing was held  
14 later in 1958, and we called evidence, we were represented  
15 by counsel, and the decision of the Board was that the  
16 rates were compensatory and that they were not lower  
17 than necessary to meet competition.

18 Q. Now, the Highway Transport Act, at page  
19 10.23.

20 MR. MAGEE: Yes, sir.

21 Q. We have heard a lot from Mr. Sinclair  
22 about cum-Winnipeg in connection with the associations  
23 and forwarders.

24 MR. SINCLAIR: That is spelled wrongly in  
25 the transcript. Apparently some gentleman here told  
26 the reporters that there were no Latin scholars in  
27 Winnipeg, and naturally we expected that to come out in  
28 the transcript as "cum", not "kum".

29 COMMISSIONER GOBEIL: Q. Mr. Sinclair  
30 told you that if those people are saving in costs -- I  
was wondering why they should not be permitted in the  
interest of the public, and all those things. Would







1  
2 you tell me what would be the difference between a  
3 licence for a for-hire truck, a big one, and a private  
4 truck, say, in the province of Quebec? We always pay  
5 more there.

6 MR. HUME: Mr. Commissioner, I have the  
7 figures, and perhaps I can give the answer and you can  
8 ask Mr. Magee any questions which arise from it.  
9 Taking a three-axle tractor with a semi-trailer unit,  
10 as representative of a large interprovincial highway  
11 carrier -- you may be surprised to find out that Quebec  
12 is not by any means the largest charger -- in Ontario  
13 it is \$769.00, and in addition to that the for-hire  
14 carrier pays an additional \$262.50, or a total of \$1031.50.  
15 That is per year. So that the private carrier moving  
16 the goods from Toronto to Winnipeg would pay \$262.50  
17 less than the commercial carrier. Then if either of  
18 these vehicles is put on a piggyback the provinces  
19 involved would lose the gasoline tax or diesel tax,  
20 which can be estimated at roughly \$35.00 one way,  
21 Toronto to Winnipeg, 1300 miles, and in Quebec the differ-  
22 ence is only about \$38.00, whereas in Ontario it is  
23 \$262.00. In Manitoba, the other end of the run, Manitoba's  
24 fee is exactly the same for both, but they charge a  
25 trip permit, and it would depend on the number of trips  
26 per year and the number of times the vehicle runs,  
27 and the trip fee is only charged against the private  
28 carrier and not the for-hire carrier.

29 COMMISSIONER GOBEIL: Q. So if it came  
30 into Winnipeg and the forwarders save money after a few  
years, many might imitate them and say: "We will do the





1  
2 same", and if it comes to 50 per cent of the traffic  
3 in Ontario, that might mean quite a loss of revenue to  
4 the province.

5 MR. MAGEE: Yes.

6 Q. You don't know what it would represent?

7 MR. MAGEE: No, I can't give you an exact  
8 figure.

9 Q. Say on a basis of 50 per cent.

10 MR. MAGEE: No, I could not give you an  
11 exact figure, but it would certainly represent a loss of  
12 revenue to the provinces, and the uncontrolled extension  
13 of this was the point I was getting at when I was  
14 answering Mr. Sinclair's questions, that is the fact that  
15 we have a regulated trucking industry in Canada now in  
16 many provinces and that we have to be careful that the  
17 regulatory system is not seriously damaged by these  
18 developments, if, in fact, we should have regulation.

19 Q. On the next page, Mr. Magee, in answer  
20 to Mr. Sinclair again, talking about intraprovincial  
21 truck traffic, you said that, I believe, in principle  
22 you don't want to see that traffic regulated by a federal  
23 board?

24 MR. MAGEE: No, we don't want to see the  
25 traffic which is purely intraprovincial, consisting of  
26 trucks that do not go outside the province in which  
27 their home terminal is situated, turned over to the  
28 federal jurisdiction or control.

29 Q. At the same time, you don't share the  
30 view, like the government of Ontario, who has no rate  
regulation, but in spite of that you still want to see







1  
2 it on a provincial level so that eventually something  
3 will be done and the principle will be safe.

4 MR. MAGEE: That is right; we would like to  
5 see rate regulation in Ontario, and in our federal act  
6 something similar to that which exists in the province  
7 of Quebec and has existed there for some considerable  
8 time.

9 Q. My last question is on your paragraph 12  
10 of that page. I am not a lawyer, but to me what you  
11 say there in a nutshell means that the federal Minister  
12 of Transport would regulate or at least have the final  
13 word on provincial tariff rates.

14 MR. MAGEE: These would be extraprovincial  
15 rates, Mr. Commissioner, which are already within the  
16 federal jurisdiction under the Privy Council decision.

17 Q. But not applied.

18 MR. MAGEE: No. The parliament of Canada  
19 has exercised its jurisdiction by passing the Motor  
20 Vehicle Transport Act, but the Transport Boards across  
21 Canada appointed as the federal controlling agencies  
22 under that act have not chosen to use their discretionary  
23 powers to control extraprovincial rates, and they can  
24 only do that under the act if they are already legally  
25 empowered to control interprovincial rates. The only  
26 situation in which the Minister of Transport would  
27 come into the picture would be to break a tie vote  
28 between the boards, and I would think that that would  
29 happen very seldom.  
30

Q. That is your paragraph 12.2, when you say  
an appeal shall be had of the Minister in the deadlock.







1  
2 MR. MAGEE: Yes.

3 Q. And you can see that any Minister would  
4 want to do that?

5 MR. MAGEE: Well, I suppose maybe if I were  
6 the minister I wouldn't want to be involved in it, but  
7 ministers are there to exercise public responsibilities  
8 and someone has to do it. But it would not necessarily  
9 have to be the minister; it would be some person or  
10 authority which exists to take care of deadlocks should  
11 they result.

12 Q. But in principle any province could  
13 say the truck rates are under the jurisdiction of Ottawa  
14 -- in principle.

15 MR. MAGEE: Under this act?

16 Q. Yes.

17 MR. MAGEE: Yes, we believe that the legal  
18 fact of life is that they are under the jurisdiction  
19 of Ottawa right now, except that control is not being  
20 exercised.

21 THE CHAIRMAN: Mr. Anscomb?

22 BY COMMISSIONER ANSCOMB:

23 Q. Mr. Magee, one point. Looking at this  
24 famous Section 15, under your bill, in effect I take it  
25 that means that if it was in effect tomorrow, it is  
26 a restriction on trade. In other words, you would  
27 tie the railways to do only 50 per cent of my business,  
28 or my colleague's business, and you do that because  
29 there would be competition for the remaining 50 per cent;  
30 is that right?





1  
2 MR. MAGEE: That is correct.

3 Q. Is there anything today which stops you  
4 from competing with that agreed charge at the end of the  
5 life of the agreed charge? Assume I have got one in  
6 the 90 clause. If I say I don't want it any more you  
7 might come along and offer me a cut rate. Is there  
8 anything to stop you doing that now?

9 MR. MAGEE: If a truck operator is in an  
10 economic position to do that, there is nothing to  
11 prevent him doing that.

12 Q. Then I fail to see why you ask for this  
13 50 per cent.

14 MR. MAGEE: Well, it gets mainly at the  
15 100 per cent agreed charges.

16 Q. But you admit that if I have got it you can  
17 crack it.

18 MR. MAGEE: I said if the economic circumstances  
19 of the trucker permitted it. That is what we are  
20 doing now in the case of some agreed charges which  
21 represent 15 per cent or 25 per cent that may move by  
22 other forms of transport, forms of transport other than  
23 rail; truckers will try to compete with that traffic.  
24 In some cases they are not agreed charges but rates  
25 where the rates are higher than those contained in the  
26 agreed charges, but because of service factors they have  
27 been able to make those rates and get the agreement of  
28 the shipper to them, but quite often that is impossible.

29 COMMISSIONER ANSCOMB: That is all.

30 THE CHAIRMAN: Mr. Mann?







1  
2 BY COMMISSIONER MANN:

3 Q. Perhaps, Mr. Magee, to keep the record  
4 continuous, may I just ask you something which arises out  
5 of Commissioner Anscomb's questions. You say there is  
6 nothing to prevent a truck operator making an agreed  
7 charge with a shipper if his economic circumstances  
8 allow him to do so. What I want to ask you is, is  
9 there anything to prevent two, three or more truck  
10 operators from getting together and making an agreed  
11 charge as a group of carriers over a given route with  
a shipper?

12 MR. MAGEE: No, there isn't, Mr. Commissioner.

13 Q. Would there be any fear on the part of  
14 the trucking industry that you might contravene the  
15 Combines Investigation Act if you did that, having no  
16 statutory exemption? This perhaps should not be  
17 addressed to you and should not be asked by me in the  
first place, but perhaps we can have a go at it.

18 MR. MAGEE: Yes, quite; it is an important  
19 point. Well, under the Combines Act we are not  
20 supposed to sit down in the trucking industry and discuss  
21 rates with each other.

22 Q. So if you were able to do that, the  
23 economic circumstances of a number of carriers could make  
24 it possible to have a rather effective agreed charge  
for a particular traffic, would it not?

25 MR. MAGEE: Yes, that is a possibility,  
26 Mr. Commissioner. It is a possibility, and I have  
27 heard it discussed occasionally, not at an association  
28 meeting, but agreed charges are always being discussed  
29  
30





1  
2 in the trucking industry, and that is something I have  
3 heard discussed.

4 Q. Now, Mr. Magee, you had quite a discussion  
5 with Commissioner Gobeil on the effect of the \$20 million  
6 subsidy, and I take it from your replies that you have  
7 not been able to establish in nine provinces that the  
8 \$20 million subsidy has been harmful to the trucking  
9 industry, and you have had certain allegations from  
10 Quebec which you are in process of substantiating  
11 now. Are you aware as to whether or not the \$20 million  
12 subsidy has had an effect on the trucking industry, or  
13 are you concerned with a principle?

14 MR. MAGEE: I think the principle is by far  
15 the most important part of it, Mr. Commissioner.

16 Q. And that principle is that if a government  
17 gives a subsidy to one carrier it automatically prejudices  
18 a competing carrier to whom the subsidy is not given.  
19 Is that the principle you are trying to make?

20 MR. MAGEE: Yes, sir.

21 Q. Now, Mr. Magee, can we turn to page 2.2 of  
22 your submission?

23 MR. MAGEE: Yes.

24 Q. You say in paragraph 4:

25 "Every increase in transport costs is bound to have  
26 its greatest effect upon the areas located furthest  
27 from the markets."

28 Now, may there be some positive effects of  
29 increases in transport costs? For instance, you have  
30 heard the so-called tariff wall argument.







1  
2 MR. MAGEE: Yes, I have.

3 Q. That would be a positive influence of  
4 freight rate increases, would it not, as far as shippers  
5 are concerned?

6 MR. MAGEE: Well, there is an argument on the  
7 point, and I am not under any instructions to express  
8 any views on it. I don't mean argument within the  
9 association; we have just never decided our viewpoint  
10 on that particular matter. But I know that it is  
11 contentious elsewhere as to whether it is a positive  
12 benefit or not.

13 Q. If freight rate increases led to the  
14 establishment of a branch plant of a company in western  
15 Canada that previously did not exist, would that be a  
16 benefit to the trucking industry because what was once  
17 a long haul has now been transformed into a short haul?

18 MR. MAGEE: Well, one fellow would lose the  
19 traffic and another one would pick it up, Mr. Commis-  
20 sioner. I think I said "one fellow". My reference  
21 was to trucker.

22 Q. Now, on page 4.5, Mr. Magee, you talk about  
23 the corrective effect of competitive forces with regard  
24 to regional transportation level.

25 MR. MAGEE: Yes.

26 Q. And you say:

27 "In fact, we have a typical example of the phenomenon  
28 of a 'diminishing gap' -- the gap between central  
29 Canada and peripheral provinces tends to diminish  
30 with the growth of competitive forces there."







1  
2 Now, on page 7.1 you state your basic position  
3 on competition, and this is the way you state it:

4 "The best regulator, and the best protection for the  
5 user of transport services, is competition; the  
6 fostering of competition and not the protection  
7 of vested interests should be the aim of a  
8 rational transport policy."

9 Now, what I would like to ask you is this:  
10 Is this an argument for complete freedom of competition?  
11 Take it to its ultimate conclusion. Is that what  
12 that would intimate? In its essence, is that an argument  
13 for complete freedom of competition?

14 MR. MAGEE: It is an argument for as much  
15 competition as you could have, Mr. Commissioner, subject  
16 to the necessary legislative safeguards as we see them  
17 to preserve competition.  
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(Page 11622 follows)





1  
2 Q. Perhaps we might discuss that for a  
3 minute. It is, I suppose, true that basic to your  
4 submission is a belief in the efficacy of competition?

5 MR. MAGEE: Yes.

6 Q. And that means competition between  
7 different types of carriers and between firms in the  
8 same type of carriage -- intra and inter-modal  
9 competition?

10 MR. MAGEE: That is right, Mr. Commissioner.

11 Q. Would you say the best way of en-  
12 couraging competition inter-modally or between two  
13 different modes of transportation is to provide for  
14 a minimum of regulation?

15 MR. MAGEE: Yes, we think that there should  
16 be a minimum of regulation.

17 Q. You also believe that on no account  
18 must one form of transportation be regulated for the  
19 benefit of another; that is also basic, I suppose,  
20 to your submission?

21 MR. MAGEE: That is our belief.

22 Q. Does it follow from that that the role  
23 of Government in regulation should be neutral?

24 MR. MAGEE: Generally, yes, except when we  
25 get back to our safeguards.

26 Q. Yes, I will come to that right now:  
27 I suppose two reasons for regulations are, one, to  
28 ensure that the public is protected against any  
29 abuses of monopoly?

30 MR. MAGEE: Yes.







1  
2 Q. You say something to this effect on  
3 page 2.3, paragraph 8 (ii). That would be one function  
4 of regulation -- to protect the public against any  
5 abuses which might result or flow from monopoly?

6 MR. MAGEE: Yes.

7 Q. Would another function of regulation be  
8 to ensure that competition between carriers of the  
9 same type or carriers of different types is not  
10 destructive?

11 MR. MAGEE: That is our view.

12 Q. But why should there be concern about  
13 destructive competition if there is a safeguard against  
14 monopoly abuses? I suppose this is, perhaps, a little  
15 unclear, and I have left out a number of intermediate  
16 steps. Let me put it this way: The end result, I  
17 suppose, of destructive competition is either the  
18 death of all -- one mode -- or the survival of the  
19 strongest, in which case I suppose one could argue a  
20 monopoly has been re-established?

21 MR. MAGEE: Yes.

22 Q. Then, if there are safeguards against  
23 monopoly abuses, why should there be any concern with  
24 destructive competition?

25 MR. MAGEE: Because the purely destructive,  
26 what I would almost call frivolous competition in the  
27 case of the trucking industry, we believe, is not in  
28 the interest of the industry, and is not in the interests  
29 of the shippers, although the shippers themselves  
30 may not agree with us about that.





1  
2 Q. I have often heard it said that the  
3 shipper is interested in having a stable transportation  
4 industry?

5 MR. MAGEE: Yes.

6 Q. And I suppose this may be one of the  
7 reasons why destructive competition may be undesirable?

8 MR. MAGEE: Yes.

9 Q. Can you achieve the two goals of  
10 regulation we have just discussed, namely, the  
11 prevention of monopoly abuses and the prevention of  
12 destructive competition -- can you achieve those two  
13 purposes by the regulation of maximum rates in the  
14 case of monopoly and minimum rates in the case of  
15 destructive competition -- a sort of two-pole proposition--  
16 maximum rates to prevent monopoly abuses, and minimum  
17 rates to prevent destructive competition?

18 MR. MAGEE: I think you can do it if the  
19 regulation is not of the shackling, too onerous nature.

20 Q. Then, the competition could take place  
21 between those two poles?

22 MR. MAGEE: Yes.

23 Q. Cost characteristics between different  
24 modes of carriage are not identical?

25 MR. MAGEE: That is right.

26 Q. Then, if we do work within these two  
27 poles of maximum and minimum rates, does one have to  
28 establish the maximum and minimum rates differently  
29 for each type of carriage bearing in mind the different  
30 cost characteristics of the different modes of







1  
2 transportation?

3 MR. MAGEE: Yes, to some extent, I think  
4 you do, Mr. Commissioner. That is one of the factors  
5 which caused the defeat of our appeal in the Incentive  
6 Rate Case. We were told about the railway cost  
7 situation and the Board of Transport Commissioners'  
8 decision in no uncertain terms and that is something --

9 Q. Well, if you do that, I run into some  
10 difficulty with this thing: What do you do within  
11 one mode of carriage where you have a weak and a  
12 strong carrier over a given route? How do you fix  
13 your bench mark rates? Do you fix them on the basis  
14 of the strongest carrier, the weakest carrier or do  
15 you fix them on an average policy? Some of these  
16 questions require a little thought.

17 MR. MAGEE: Yes, I would like to think about  
18 that, if I may.

19 Q. Moving on a little bit with that: In  
20 setting maximum and minimum rates would you say true  
21 costs of carriage must be first found and then used  
22 as a point of departure -- first, they must be found,  
23 they must be ascertained?

24 MR. MAGEE: Yes, I suppose upon complaint  
25 about the rates there would be an experience built  
26 up as to the criteria that would be used.

27 Q. I wasn't coming so much to the mechanism  
28 right now, but it is essential for the development  
29 of minimum and maximum rates that someone have some  
30 knowledge of the true costs of the carrier?







1  
2 MR. MAGEE: Yes, I think that is essential  
3 if you are going to have rate regulation.

4 Q. If a carrier receives a subsidy, this  
5 tends to obscure his true costs -- does it?

6 MR. MAGEE: Yes, I think it does.

7 Q. Similarly, if a carrier receives tax  
8 exemptions or tax benefits, or pays insufficient for  
9 the use of Government-provided facilities, this would  
10 also obscure his true costs?

11 MR. MAGEE: Yes, I would think so.

12 Q. Once these bench mark rates have been  
13 established and the process has been devised for  
14 changing them in the light of ever-changing costs,  
15 is there any need then to determine specific rates  
16 by regulation?

17 MR. MAGEE: Well, we feel, Mr. Commissioner,  
18 that in regard to the determination of specific rates,  
19 that would only come about under the regulatory system  
20 that we have proposed on complaint by the shipper;  
21 in other words, we have tried to leave the rate  
22 regulation as flexible as possible to take into account  
23 some of the differing characteristics that you have  
24 been outlining.

25 Q. Suppose you have a haul on which there  
26 is most extensive competition for a given range of  
27 commodities: Can you rely on competition, and competition  
28 alone, to protect the public against monopoly abuses?

29 MR. MAGEE: I am sorry, could I have that  
30 again?





1  
2 Q. If you have very intensive competition  
3 for a range of commodities over a given route, can  
4 you in the face of this extremely intensive com-  
5 petition rely on it to protect the public against  
6 monopoly abuses?

7 MR. MAGEE: You can, and then again,  
8 possibly, you can't. The reason I say that is that,  
9 suppose under the regulatory system carriers get to-  
10 gether in regard to the rates.

11 Q. Yes. Then, although it appears that  
12 by the number of franchises available that there is  
13 competition, this competition has been lessened by  
14 the meeting of minds?

15 MR. MAGEE: That is -- yes --

16 Q. Supposing it has not been lessened and  
17 it were there in full bloom: Would you then need  
18 maximum rates which I think we agreed earlier were  
19 necessary for the protection of the public against  
20 monopoly abuses?

21 MR. MAGEE: I wonder if I could consider  
22 that in relation to the earlier question?

23 Q. Certainly. Supposing you have a haul  
24 for which there is no competition for a given commodity:  
25 Do you then need minimum rates?

26 MR. MAGEE: I would like to think about  
27 that one.

28 Q. And finally -- and I realize these  
29 require a bit of thought -- can you, if both these  
30 things are true, can you have variable regulatory







1  
2 standards for different types of traffic or for  
3 different types of localities? In other words, can  
4 you have a departure from a uniform standard of  
5 regulation if you have different conditions either  
6 for given ranges of traffic or different localities  
7 in this country?

8 MR. MAGEE: I think so.

9 Q. On page 4.17, paragraph 54 -- and you  
10 also deal with this in Volume 60 of the daily trans-  
11 script at page 10876 -- you say that any program of  
12 regional or sectional assistance should be implemented  
13 in such a way as not to disturb the workings of  
14 natural competitive forces; and, in the daily trans-  
15 script I have referred to you say, "If you single out  
16 one form of transportation in a competitive trans-  
17 portation environment and select it as a designed  
18 (designated) instrument for subsidization for the  
19 Federal Government, then you are disturbing the  
20 workings of natural competitive forces." Supposing  
21 the Government of Canada gave a subsidy or an interest-  
22 free loan to the railways in respect of the acquisition  
23 of rolling stock or something like that: Wouldn't  
24 you think that would upset the workings of the natural  
25 competitive forces in this country?

26 MR. MAGEE: Yes, I think that would have an  
27 impact on that.

28 Q. Similarly, wouldn't it have an impact  
29 if the Government of Canada decided, next year or some  
30 time in the future, to build a second trans-Canada





1  
2 highway -- would that upset the workings of the natural  
3 competitive forces?

4 MR. MAGEE: It would depend on the manner  
5 in which the use of the highway was paid for and whether  
6 it was fairly done.

7 Q. If there were user charges, it would  
8 not upset the workings of competitive forces. Similarly,  
9 if the railway were to be asked to pay an interest  
10 rate on any loan that may be extended to it by the  
11 Federal Government, that would not significantly dis-  
12 turb the workings of natural competitive forces; is that  
13 what you are saying?

14 MR. MAGEE: Yes.

15 Q. Turning to page 6.8, this is the much  
16 discussed 50 per cent restriction on railway agreed  
17 charges. Now, supposing that went into law and I,  
18 as a very large company, said to Canadian Pacific and  
19 Canadian National, "Well, I know that I can only by  
20 law give you 50 per cent, but, in effect, you will  
21 get 100 per cent", and, being a large company and  
22 of some repute in this country, and a company that  
23 does not break its word easily, would you think the  
24 railways could pretty well rely on the undertaking I  
25 have given? Mr. Sinclair suggests the answer is  
26 yes.

27 MR. MAGEE: I am not sure whose undertaking  
28 this is, but I would say yes in either case --  
29 certainly in regard to the railways -- any undertaking  
30 they make.







1  
2 Q. Oh yes, both parties being reputable.

3 If the shipper says to the railway, "Although under  
4 the law I can't sign a contract for more than 50 per  
5 cent, I will tell you now that I will, in effect,  
6 give you 100 per cent", and this is what you con-  
7 templated when you contemplated the existence of that  
8 when you discussed it with counsel earlier.

9 MR. MAGEE: Yes.

10 Q. And you would, surely, not think that  
11 a large industry would easily break its word given to  
12 the railways to give the railways, say, 95 per cent  
13 of the traffic -- 45 in excess?

14 MR. MAGEE: No, I think you are right, Mr.  
15 Commissioner.

16 Q. Well, in setting the rates for agreed  
17 charges, the railways, knowing that they will in effect  
18 have 95 per cent of the traffic, would you not think  
19 that the rate they set would take into account the  
20 volume they can expect?

21 MR. MAGEE: I would certainly think so. They  
22 would be free to lure the whole 100 per cent to the  
23 railways if they could make it stick, despite the 50  
24 per cent limitation.

25 ---A short recess.  
26  
27  
28







1  
2 BY COMMISSIONER MANN:

3 Q. Mr. Magee, on page 8.4 in paragraph  
4 12 which runs over to page 8.5 there is this sentence  
5 at the very bottom:

6 "The cost of piggybacking services to the trucking  
7 industry is simply the rate charged by the railroad."

8 Well, now, I suppose I find the rate charged  
9 by the railways in Canadian Freight Association tariff  
10 No. 38 D which shows the rate for piggyback.

11 MR. MAGEE: Yes.

12 Q. I do not know whether you are familiar with  
13 it, perhaps if you are not you might find out for us  
14 whether the rate shown in this tariff shows the complete  
15 cost of piggybacking for-hire carriers using the two  
16 railways.

17 MR. MAGEE: As reflected in the rates?

18 Q. Yes. You see, I am having a little  
19 difficulty with it. I was looking at the rates between  
20 Saint John and Montreal, since Saint John has been so  
21 popularly mentioned in this inquiry, for loaded semi-  
22 trailers and I find a rate in item 55 of C.F.A. Tariff  
23 No. 38 D of \$1.81 per 100 pounds on the contents of  
24 the semi-trailer with a medium weight of 32,000 pounds.  
25 Then, when you look at the class rates between Saint  
26 John and Montreal you find that eastbound the class  
27 100 rate is \$2.44; the class 85 rate is \$2.08; the class  
28 70 rate is \$1.71 and the class 55 rate is \$1.34. Now,  
29 when you look at these rates in 38D and then compare them  
30 to the class rates, the assumption might be made that no  
trucker can remain in business using piggyback unless he





1  
2 carries the merchandise rate at higher than class 70 on  
3 his carriage from Montreal to Saint John.

4 MR. MAGEE: Yes.

5 Q. And in the reverse direction no carrier  
6 can remain in business using piggyback services provided  
7 by the railways unless from Saint John to Montreal he  
8 carries merchandise rated higher than class 85. Now,  
9 I wonder whether that is the case and whether or not  
10 the truckers using piggyback services between Saint  
11 John and Montreal indeed only carry commodities so highly  
12 rated or whether they carry commodities so rated at  
13 class 55. Now, perhaps you might give me the answer  
14 to that.

15 MR. MAGEE: I would not think they are confined  
16 to just the -- the commodities would be confined just to  
17 the one category that you stated.

18 Q. Are there any allowances in addition to  
19 the rates shown in C. S. A. Tariff 38 D that are made  
20 by the railways to the piggyback user, say, in respect  
21 to pickup and delivery, for instance?

22 MR. MAGEE: I have never been involved in  
23 this rate situation in regard to piggyback, as a matter  
24 of fact, we as an association were not the initiator  
25 of the piggyback arrangement with the truckers, it was  
26 done by a group of truckers on the Toronto-Montreal run  
27 and I am not familiar personally with what their rate  
28 arrangements are.

29 Q. Perhaps we can find out from the railways  
30 at some convenient time.

MR. SINCLAIR: We would be glad to let you have







1  
2 the arrangement using Montreal and Toronto as the basis.

3 COMMISSIONER MANN: Q. On page 8.6,  
4 paragraph 17 and 18 you discuss the problem of the  
5 local cartage operators who might cut into the operations  
6 of an established line haul carrier.

7 MR. MAGEE: Yes.

8 Q. That is surely not a danger now, is it,  
9 at the moment? This has not yet happened?

10 MR. MAGEE: Well, we just wondered when we  
11 wrote that if that could not happen under the Railway  
12 Act where the railways might not be in a position where  
13 they would have to transport these local cartage operators'  
14 trailer.

15 Q. You see, I was looking again at C. S. A.  
16 Tariff 38D and rule 5 reads as follows:

17 "The services governed by this tariff are available  
18 only to highway motor truck 'for-hire' carriers  
19 hereinafter called motor carriers who, one, hold  
20 the required licence permit and/or franchises from  
21 the lawful authority having jurisdiction in such  
22 matters and, two, having made proper contractual  
23 arrangements with the railway companies."

24 So that to me suggests that the railways  
25 at the moment will not accept vehicles licensed only for  
26 local cartage?

27 MR. MAGEE: Yes, under that tariff that is  
28 right.

29 Q. And that is a tariff that governs for-hire  
30 piggybacking in Canada?

MR. MAGEE: Yes.





1  
2 Q. Now, on page 9.1 in paragraph 5 you discuss  
3 the question of feeder services. Now, I think the  
4 problem of through rates has been mentioned and I wondered  
5 what would happen to the settlement of claims where  
6 an independent trucker established a feeder service of the  
7 railways that did not move on through rates. Would there  
8 be any difficulties about that and are they insuperable?

9 MR. MAGEE: Well, as you know from your  
10 experience of years past, the claims problem can  
11 certainly be a difficult one as between carriers.  
12 However, you will recall how that problem has been worked  
13 on in Ontario through the Canadian Industrial Traffic  
14 League and the trucking associations and I think this  
15 problem can be dealt with in the same way.

16 Q. If there were through rates between the  
17 independent trucker and the railway, the question of  
18 claim settlement may be settled more easily under those  
19 conditions, could it?

20 MR. MAGEE: Yes, I think perhaps it could be.

21 Q. Should there be a mechanism to compel  
22 the establishment of through rates intermodally?

23 MR. MAGEE: We have never considered it. I  
24 think the question was asked -- I am not sure whether it  
25 was Mr. Sinclair or which counsel but I have been looking  
26 it up in our association records over the weekend and  
27 I find we have never taken a position on that matter.

28 Q. If there were such a mechanism established,  
29 I suppose it would have to be a joint board involving the  
30 Board of Transport Commissioners and a provincial board  
or the joint board that you have in mind on extraprovincial







1  
2 carriage?

3 MR. MAGEE: Yes.

4 Q. On page 9.4 in paragraph 15 you say:  
5 "The railway organization shows signs of a strong  
6 tradition of a well defined hierarchy."

7 And you contrast that to the trucking industry.  
8 You have heard about the reorganization plans of the  
9 two major railways which, as I understand it, are  
10 designed to decentralize responsibility to a greater  
11 extent than has been the case so far.

12 MR. MAGEE: Yes.

13 Q. With this decentralization, would that  
14 give the railway a greater flexibility?

15 MR.MAGEE: I would think it would. Our  
16 only comment in regard to this matter of hierarchy arose  
17 just from the size of the railroads, the tremendous  
18 size of the railroads and the difficulty of operating  
19 an organization so tremendous with a hierarchy of vice-  
20 presidents and divisions, regions and so on.

21 Q. But you think the traffic department of  
22 the regional Canadian Pacific or Canadian National  
23 having pretty complete jurisdiction over its activities,  
24 could they establish a relatively intimate relationship  
25 with the shipping public on that decentralized basis?

26 MR. MAGEE: Yes, probably produce more  
27 intensive competition for us but that is nothing we  
28 are opposed to.

29 COMMISSIONER GOBEIL: You also say on the  
30 next page that their subsidiaries enjoy a wide degree  
of economy.







1  
2 MR. MAGEE: That is what we assume and the  
3 meaning of that was to tie up an independent truck line  
4 and run it with the same characteristics that you do an  
5 independent truck line. The railways cannot interfere  
6 with it too much and impose railway standards doing one  
7 thing and another or they will spoil the operation.  
8 They may bring improvements, some improvements.

9 COMMISSIONER MANN: Q. I just have  
10 one or two further questions. On page 10.25 we move  
11 again into a much discussed area during your evidence,  
12 and I have reference to paragraph 15 of the proposed  
13 act which is shown on that page. Now, this 50 per cent  
14 requirement of agreed charges made by the trucking  
15 industry.

16 MR. MAGEE: Yes.

17 Q. It has been suggested to you that a shipper  
18 could give one trucker 50 per cent and another trucker  
19 50 per cent of the traffic to be pooled at perhaps  
20 a lower over-all rate to the shipper.

21 MR. MAGEE: Yes.

22 Q. And a greater return to the participating  
23 carriers? It is not possible under the Transport Act  
24 as far as railways are concerned.

25 MR. MAGEE: No.

26 Q. Supposing you added another clause to  
27 Section 15 which would read -- section 15 subsection 2:

28 "No agreement for transportation by highway from  
29 or to a competitive point or between competitive  
30 points on the route of two or more extraprovincial  
carriers shall be made unless competing carriers





1  
2 "by highway consent thereto in writing or join in  
3 making."

4 Would that do away with the shipper giving  
5 50 per cent to one carrier and 50 per cent to the other  
6 carrier? Would that put it on a par with the obligations  
7 of the railway?

8 MR. MAGEE: I would like to think about that,  
9 Mr. Commissioner. It actually has to do with the  
10 discussion that we are having now. Our officers have  
11 the authority to change this section in a way that  
12 will make it roughly comparable to the proposal that  
13 we have made in regard to the railways, the parties in  
14 this action, or to try. I think Mr. Sinclair called  
15 it a nice little fair arrangement. That was the  
16 intention and it is not properly expressed here. We  
17 have authority to change it without having to refer  
18 back to our people.

19 MR. HUME: Before you leave that, may I say,  
20 do I understand it correctly that if you take, say,  
21 Toronto and Hamilton it is realized that with all the  
22 C carriers and D carriers you could have 2500 carriers  
23 involved in competing between Toronto and Hamilton.

24 COMMISSIONER MANN: Quite possibly.

25 Q. While we are talking about amendments I  
26 might look at the suggested amendment of the Transport  
27 Act referred to in section 6, paragraph 21 of the  
28 submission of the Canadian Trucking Associations, the  
29 purpose of which is to allow any motor vehicle operator  
30 or association of motor vehicle operators to go to the  
minister as regards to agreed charges.







1  
2 MR. MAGEE: Yes.

3 Q. What I want from you, Mr. Magee, is you  
4 notice that in the present section 33, subsection 1 (a)  
5 it says that any carrier or association of carriers by  
6 water or rail is allowed to do that but the definition  
7 section of the transport act, section 2, subsection 1 (p)  
8 defines a water carrier as one licensed under the  
9 act.

10 MR. MAGEE: Yes.

11 Q. If Newfoundland and Great Lakes steamships  
12 which has not a carrier licence under the transport act  
13 wanted to complain to the minister about an agreed charge  
14 on, shall we say, vegetable oils going through Toronto  
15 to St. John's, they would not now, I take it, have the  
16 right to do so because they are not a water carrier licensed  
17 under the act.

18 MR. MAGEE: That is correct.  
19  
20

21 (Page 11646 follows)  
22  
23  
24  
25  
26  
27  
28  
29  
30





1  
2 Q. They don't come within the jurisdiction  
3 of the Board of Transport Commissioners?

4 MR. MAGEE: No.

5 Q. Neither does the traffic industry?

6 MR. MAGEE: No.

7 Q. Would you think these unregulated water  
8 carriers should also have the right to complain to  
9 the Minister about an agreed charge, or would they  
10 claim the same right as you do -- having a similar  
11 status?

12 MR. MAGEE: If they claimed it I am quite sure  
13 we would not oppose it.

14 COMMISSIONER MANN: Thank you very much.

15 BY COMMISSIONER PLATT:

16  
17 Q. Mr. Magee, there is a grain growing  
18 region that we in Canada refer to as the Siberian  
19 Project, and this was started a number of years ago  
20 and is a substantial project; it is considerably  
21 larger than the total grain growing area of Canada  
22 put together.

23 MR. MAGEE: I see.

24 Q. And it is reported since this project  
25 was started that up to that time they had some rather  
26 ingenious methods of production, and amongst the  
27 things reported is their system of handling the grain,  
28 and their transportation system is radically different  
29 from what we have in Canada, and that trucks are  
30 extensively used in this. I was wondering if in your







1  
2 investigation of truck hauling of grain you had any  
3 knowledge of this and how the trucks are used there?

4 MR. MAGEE: No, sir; I have no knowledge  
5 of it at the moment, but it certainly sounds most  
6 interesting. If Mr. Archambault is still in Europe,  
7 I would have to get him to look into this.

8 MR. SINCLAIR: You want to send him to  
9 Siberia?

10 MR. MAGEE: He has been to Russia and met  
11 the Minister of Transport in Moscow; not on this trip,  
12 but previously.

13 MR. PLATT: Q. Well, if you can do that,  
14 it would be helpful. There is no limit to the amount  
15 of things we are asking you to do, so I see no harm  
16 in asking for that.

17 MR. MAGEE: I will see what I can work out.

18 Q. In the handling of Canadian grain, the  
19 grain is moved from the field to farm storage and  
20 from farm storage to country elevators and from country  
21 elevators to export positions: All these things  
22 cost money. In your examination of this have you  
23 made any calculations as to what might be saved by  
24 the elimination of any of these steps, such as  
25 hauling by truck direct from farm storage to export  
26 positions, or by using containers to move the grain --  
27 and I mean by "containers" a form of piggy-back?

28 MR. MAGEE: Yes.

29 MR. MONTAGUE: In our approach to the problem  
30 we agree with you that this, of course, would be







1  
2 pertinent. Our approach was simply on a basis of,  
3 was there traffic of the same nature moving elsewhere  
4 and how was it moving, and we found out it was moving,  
5 and we didn't go too deeply into the cost factors.  
6 So, we could not provide you with any information  
7 along the line you have requested.

8 Q. Well, I won't request you to do it,  
9 but if you are making an economic survey of it, then,  
10 those things certainly are pertinent.

11 MR. MONTAGUE: Yes.

12 COMMISSIONER PLATT: Thank you very much.

13 THE CHAIRMAN: Have you any re-examination,  
14 Mr. Hume?

15 MR. HUME: Mr. Chairman, I do not propose  
16 to re-examine either of these two witnesses. I think  
17 the material is on the record. There are some un-  
18 finished items that we have been requested to supply,  
19 and I think I have an accurate list of them, and as  
20 soon as the information can be got together, at some  
21 convenient time I will arrange to put it on the record.

22 I want to say to the Commission how much  
23 we appreciate the opportunity of presenting our sub-  
24 mission, and the very patient way you have listened  
25 to it over the last eight days.

26 THE CHAIRMAN: Well, Mr. Magee and Mr.  
27 Montague, thank you very much. You have been very  
28 responsive as a witness, Mr. Magee, and very helpful  
29 to the Commission, and even Mr. Sinclair, I think,  
30 agrees that you have been excellent witnesses.





1  
2 MR. SINCLAIR: They have been excellent  
3 witnesses -- they certainly have, sir.

4 THE CHAIRMAN: Probably the fact that Mr.  
5 Montague comes from Manitoba has something to do with  
6 it. Thank you very much.

7 Now, Mr. Sinclair, who is first tomorrow?

8 MR. SINCLAIR: Mr. Stenason, and we will  
9 open by recalling him and, as indicated and distributed  
10 to my friends, we will present an exhibit and have him  
11 explain the results of suggestions made by the  
12 various consultants of the grain handling organizations,  
13 the provinces and the Commission staff, and so on,  
14 and also we will have available the various specialists  
15 from the railway some of whom carried on these special  
16 studies, including the engineer of traffic --

17 THE CHAIRMAN: Are we to understand that  
18 all parties have had all the information which they  
19 requested?

20 MR. SINCLAIR: As far as I know, they got  
21 all the information and, indeed, I will bring to the  
22 Commission a little document about so high -- and  
23 I am indicating 2-1/2 feet -- and I will ask the  
24 Commission if they wish us to file these as exhibits  
25 serriatum, because we can do that. A copy of each  
26 of these requests and the answers supplied have  
27 been given to the Commission, and if the Commission  
28 feels they should be put on record we will go through  
29 them one by one and deal with them, and carry on  
30 in that way.







1  
2 THE CHAIRMAN: I don't know --

3 MR. SINCLAIR: Well, I will have them here.

4 THE CHAIRMAN: I don't think we are concerned  
5 with that as much as if that is done it will enable  
6 us to get to the heart of the thing.

7 MR. SINCLAIR: I hope so, sir.

8 COMMISSIONER GOBEIL: And finish this year?

9 MR. SINCLAIR: And finish this year? I  
10 think that the heart and the sinues and the bowels and  
11 every part of this study has been gone into very,  
12 very extensively by numerous people in the last seven  
13 months -- since September 15th last.

14 THE CHAIRMAN: Well, we will adjourn until  
15 10 o'clock tomorrow morning.

16 ---Adjournment.  
17  
18  
19  
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29  
30



*Howe P. P. Miller*

# ROYAL COMMISSION

ON

## TRANSPORTATION

### HEARINGS

HELD AT

OTTAWA

VOLUME No.:

66

DATE

10 MAY 1980

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I N D E X

Page No.

STENASON, Walter John

Direct Examination  
By Mr. Sinclair

11654

Cross-examination  
By Mr. Mauro

11673

Exhibit No.

Description.

132

Document Entitled:  
"Canadian Pacific Railway.  
Revision to Results of Cost  
Study for Moving Grain and  
Grain Products at Statutory  
and Related Rates to Export  
Positions in Western Canada".

11654







ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held  
in the Court Room, Board of  
Transport Commissioners Offices,  
Ottawa, Ontario, on the 10th  
day of May, 1960.

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ERRATA

Volume 66

- 1
- 2 p. 11,657 - 1.4 Delete first word - "at"
- 3 p. 11,666 - 1.4 Reads "176 miles", should read  
4 "17.6 miles".
- 5 p. 11,674 - 1.8 Reads "\$7,218,00" should read  
6 "7,218,000".
- 7 p. 11,675 - 1.16-17 Reads "The same applies, the same  
8 locomotives are applied to some  
9 locomotives on Canadian Pacific in  
10 1958 since "
- 11 Should read: "The same applies to  
12 steam locomotives on Canadian Pacific  
13 in 1958 since the annual repairs to  
14 steam locomotives were running repairs."
- 15 p. 11,677 - 1. 2-3 Reads "flat"; should read "fleet".
- 16 p. 11,692 - 1. 29 Reads "why"; should read "what".
- 17 p. 11,735 - 1. 23 Reads "of grain"; should read "to grain".
- 18 p. 11,741 - 1. 22 Reads "moving as"; should read  
19 "moving at".
- 20 p. 11,776 - 1. 4 Reads "If the line is solely related";  
21 should read "If the line is not solely  
related".
- p. 11,804 - 1. 3 Reads "car wages"; should read "crew  
wages".
- p. 11,812 - 1. 16 Reads "cuts per car"; should read  
"cars per cut".
- p. 11,812 - 1. 23 Reads "cut per grain car"; should read  
"grain cars per cut".







Ottawa, Ontario,  
Tuesday,  
May 10, 1960.

---On commencing at 10.00 a.m.

THE CHAIRMAN: Order, please, gentlemen.  
Mr. Sinclair, I see you have Mr. Stenason here.

MR. SINCLAIR: Yes. I will recall Mr. Stenason,  
Mr. Chairman, members of the Commission.

WALTER JOHN STENASON, recalled.

MR. SINCLAIR: Mr. Stenason, your purpose  
here is to answer questions of my friends and the  
Commission concerning the evidence that you presented  
some months ago concerning the revenues and costs of  
moving grain and grain products to export positions  
in western Canada.

Mr. Chairman, members of the Commission, I  
should say that in view of the situation that exists  
here, and to enable this matter to be cleaned up this  
time, we have brought to Ottawa and have available for  
Mr. Stenason to consult with, or if it is necessary to  
go beyond that, certain specialists he could see in re-  
gard to any specific questions that he couldn't answer.  
These are Dr. Edwards who, of course, will be recalled  
who was the cost analyst consultant; Mr. Nepveu, the  
company's chief statistician and assistant to the  
comptroller in regard to special studies; Dr. William Hood,  
of the University of Toronto, who has been our statistical  
consultant; L. R. Smith, who is assistant to the  
president of Canadian Pacific, a specialist in operations;





1  
2 Mr. J. M. Bentham, engineer of track, Canadian Pacific;  
3 Mr. H. W. Hayward, who is from the mechanical department,  
4 and formerly works manager of Angus Shops; Mr. H. G. McGinn,  
5 who is the assistant superintendent, Winnipeg Terminals,  
6 who has been on leave of absence, one of the company's  
7 yard specialists.

8 These people have all been part of this group  
9 that has worked on this determination on cost of moving  
10 grain. Some of them have actually been in charge of  
11 some of the special studies that have been done.

12 THE CHAIRMAN: That is a very distinguished  
13 group.

14 MR. SINCLAIR: Yes.

15 THE CHAIRMAN: Mr. Sinclair, in order that  
16 there should not be kept around here too long so many  
17 of these important men, the Commission will give consider-  
18 ation to longer hours in order to deal with the witnesses  
19 and let them away.

20 MR. SINCLAIR: Thank you, Mr. Chairman.

21 Now, Mr. Chairman and members of the Commission,  
22 during the months that have gone by since last fall, as  
23 the Commission knows, there have been consultations,  
24 conferences, between consultants of the various parties  
25 and technical staff of the Commission with Mr. Stenason  
26 and his group. Arising out of these suggestions, as  
27 we said when we presented this study originally, we  
28 would be prepared to consider any suggestion made and  
29 to make such revisions as we felt were appropriate in the  
30 light of those suggestions. Numerous suggestions have  
been made, and we have made certain revisions, and





1  
2 there was distributed last week, in accordance with my  
3 undertaking to the Commission's technical staff and  
4 counsel, a document which I would like now to file and  
5 then have Mr. Stenason speak to it. It is a document  
6 entitled: "Canadian Pacific Railway --

7 THE CHAIRMAN: Have the provinces this, too?

8 MR. SINCLAIR: Yes.

9 THE CHAIRMAN: Mr. Frawley and Mr. Mauro?

10 MR. SINCLAIR: Yes, and Mr. Dickson and  
11 Mr. MacKimmie, as well as the Commission staff. This  
12 document is entitled: "Canadian Pacific Railway.  
13 Revision to Results of Cost Study for Moving Grain and  
14 Grain Products at Statutory and Related Rates to Export  
15 Positions in Western Canada, Arising From Suggestions and  
16 Tests Proposed by Commission Staff, Consultants of Grain  
17 Trade and Provinces, and Canadian Pacific." This  
18 document consists of seven pages. I would ask that this  
19 be marked as an exhibit.

20 ---EXHIBIT NO. 132: Document Entitled:  
21 "Canadian Pacific Railway.  
22 Revision to Results of Cost  
23 Study for Moving Grain and  
24 Grain Products at Statutory  
25 and Related Rates to Export  
26 Positions in Western Canada"

27 DIRECT EXAMINATION BY MR. SINCLAIR (cont'd):

28 Q. Mr. Stenason, you have Exhibit 132 before  
29 you?

30 A. Yes.

Q. Would you please, then, taking this document,  
the first page is a summary, I take it, of the revisions







1  
2 that have been made?

3 A. Yes, that is correct.

4 MR. SINCLAIR: I think, Mr. Chairman, that this  
5 speaks for itself. It shows the revenues as given by  
6 Mr. Stenason of \$35,300,000.00 odd as in the transcript  
7 have been revised to \$35,400,000.00 odd.

8 Next is variable cost, which was \$52,300,000.00  
9 odd in the transcript, and as revised, \$51,700,000.00  
10 odd. Total cost as in the transcript was shown as  
11 \$70,700,000.00 odd, and as revised, \$71,700,000.00 odd,  
12 and the deficiency, as in the light of the revisions,  
13 \$36,300,000.00, and the percentage change on account  
14 of the revisions is to increase the deficiency by 1.55  
15 per cent.

16 MR. FRAWLEY: Are there only references to  
17 the transcript? You haven't any references to C.P.7.

18 MR. SINCLAIR: No, I just tied it in with the  
19 transcript, Mr. Frawley. In some of the other pages you  
20 will notice we have tied it in with Mr. Stenason's state-  
21 ment number, and I will give the exhibit number when we  
22 come to that.

23 Q. The second page is the supporting data for  
24 the summary sheet, showing the revision made in revenues.  
25 Looking at page 2 of Exhibit 132, Mr. Stenason, what is  
26 your comment on that?

27 A. The adjustment was to reflect demurrage  
28 revenues on grain products which had been excluded pre-  
29 viously. The revenues were arrived at from a survey  
30 undertaken on our behalf by the Canadian Car Demurrage  
Bureau, and does not include any refund or waybills of





1  
2 the demurrage revenue. This is the gross. In the  
3 billing it was not possible to get any reduction.

4 Q. And without any adjustment for reasons  
5 stated by the mills as to why demurrage should not be  
6 charged in specific cases?

7 A. Yes, that is correct.

8 Q. So what you are saying, I take it, is that  
9 this may be overstated?

10 A. Yes.

11 Q. But it wouldn't be much?

12 A. No, it wouldn't be significant.

13 MR. SINCLAIR: Page 3 of Exhibit 132 is  
14 part of the exhibit, Mr. Chairman, members of the Commission,  
15 which deals with revisions to the variable cost, and we  
16 are dealing with this serriatum.

17 Q. Dealing with the road maintenance, your  
18 statement 405, which is Exhibit 63, under roadway main-  
19 tenance, Mr. Stenason, the first revision on track  
20 maintenance and depreciation which, under the classifi-  
21 cation, is account 202 and others. What were the reasons  
22 for the revisions in that cost?

23 A. There were two reasons. The first was  
24 to correct an error which had arisen as a result of the  
25 inversion of two figures in the input data to one of the  
26 equations. That had a minor effect only. The major  
27 change here resulted from additional yard studies which  
28 were done following discussions as to the treatment of  
29 through classification time for grain. The consultants  
30 suggested that by taking average classification time at  
through terminals there was a possibility of having







1  
2 overstated the classification time which was caused by  
3 work done to through cars only, that is cars arriving at  
4 at the terminal on the one train and leaving the terminal  
5 in another train, as compared to local cars, that is cars  
6 originating in the terminal or being taken out of the  
7 train at the terminal.

8 Q. And arising out of this suggestion were  
9 special studies undertaken?

10 A. Yes, we undertook three special studies,  
11 at Kenora, Swift Current and Revelstoke, and we isolated  
12 the classification work which was done to through cars  
13 in each of these terminals by following the car through  
14 the terminal in a four-day study period and by analyzing  
15 the work done to the cars.

16 THE CHAIRMAN: That work was done since you  
17 gave evidence?

18 MR. STENASON: Yes. It was done in March,  
19 as a matter of fact.

20 MR. SINCLAIR: Q. The next item was the cost  
21 arising from maintenance of shops and enginehouses, and  
22 there was a revision here. The reason for the revision,  
23 please?

24 A.. When the regression analysis of maintenance  
25 of shops and enginehouses was done, it was run with  
26 maintenance only, and this revision arises when including  
27 depreciation with maintenance.

28 Q. When you did that originally you didn't  
29 include the depreciation costs in the figures?

30 A. Yes, that is right.

Q. The third is the maintenance of water and





1  
2 fuel stations. The reasons for the revision, please?

3 A. When the study was originally done, fuel  
4 and crew wages of the study traffic had been segregated  
5 or combined at a very early stage in the working papers,  
6 and that meant that maintenance of water and fuel stations,  
7 which was developed from a regression equation, was  
8 applied based on an average cost for the system.

9 We went back through the working papers and split the  
10 crew and wage costs of the study traffic, which made it  
11 possible to apply the maintenance of the water and fuel  
12 stations directly to the cost of the study traffic.

13 Q. The next one is maintenance of signals.  
14 Your explanation of the revision there, Mr. Stenason?

15 A. The regression equation for signals is  
16 applied to train miles of main line movement only,  
17 and previously we had applied it to total train miles  
18 of the study traffic. The reason for this revision is  
19 that there is not an extensive signalling system with  
20 branch lines. There is some, however, such as train  
21 order boards and interlockers and highway crossings.  
22 This revision means that no variable cost for signals  
23 on branch lines has been included in the cost study.

24 Q. If it is excluded from the variable cost,  
25 would that cost go over into constant?

26 A. Yes.

27 Q. So there was only a portion of it of what  
28 might be attributable to grain has come into the study?

29 A. Yes.

30 Q. The fifth one is road maintenance super-  
vision and overhead.





1  
2 A. This resulted from a new regression equation  
3 applied to road maintenance expenses. The adjustment  
4 for supervision and overhead has already been included  
5 by adjustments in the items 1, 2, 3 and 4 in the state-  
6 ment.

7 Q. The only change here is \$679.00.

8 A. That was a balancing item.

9 Q. In regard to equipment maintenance, your  
10 statement 406, dealing first with your item 6, which is  
11 road locomotive repairs and yard locomotive repairs,  
12 would you please explain the reasons for the revision?  
13  
14  
15  
16

17 (Page 11661 follows)  
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1  
2 A. Steam locomotive repair expenses are  
3 not segregated in the accounts between yard and road  
4 or between passenger and freight. A separation of  
5 these expenses was made on the basis of locomotive  
6 capacity miles. This was to weight out more precisely  
7 the repair expenses of yard locomotives as opposed to  
8 road locomotives, the yard locomotives being lighter.  
9 The diesel locomotive expenses are segregated between  
10 yard and road but not between passenger and freight.  
11 The separation between passenger and freight was made  
12 as a result of special study. There was, certainly,  
13 a reduction in yard locomotive time as a result of  
14 the further field studies to which I have already  
15 referred.

16 Q. That is the same field studies you  
17 spoke of when dealing with adjustments to track main-  
18 tenance and depreciation?

19 A. Yes.

20 Q. Item one in exhibit 132. The result  
21 of that was to increase one and decrease the other?

22 A. Yes, there was a very small amount  
23 involved in the change.

24 Q. The next item was road locomotive  
25 and yard locomotive depreciation. Exhibit 132 shows  
26 that the explanation for the revision is the same as  
27 the explanation you have dealt with in dealing with  
28 locomotive repairs; correct?

29 Q. Yes, there is one additional point  
30 I would like to make, and that is that the steam





1  
2 locomotive depreciation expenses were first segregated  
3 between freight and passenger on a horse power hour  
4 basis rather than on a locomotive capacity mile basis.  
5 This is to reflect the time factor in depreciation.

6 Q. The next item having to do with freight  
7 car repairs and depreciation: the revision here, Mr.  
8 Stenason -- will you please give your explanation of  
9 that revision?

10 A. Previously, freight car repair expenses  
11 have been treated on the basis of 70% variable with  
12 car miles and 30% variable with car days. It was  
13 suggested that because of the way grain was handled,  
14 this cost should be broken down to cover costs variable  
15 with inspections, car days, or car miles. This was  
16 done by excluding inspection costs amounting to 16%  
17 of total repair costs and developing car days through  
18 a special sample of Canadian Pacific cars to determine  
19 the idle ratio. The unit cost of inspection was developed  
20 based on total car miles on Canadian Pacific excluding  
21 caboose. The unit cost for the car miles portion of  
22 repair and depreciation expenses was developed on the  
23 basis of car miles of C.P.R. cars both on line and off  
24 line, to reflect the fact that the study traffic is  
25 not handled in foreign cars. As a result no adjustment  
26 on inter-line per diem charges is appropriate in  
27 dealing with the costs here involved.

28 Q. The last item under equipment maintenance  
29 is work equipment, superintendence and overhead, and  
30 exhibit 132 shows the reason as arising from the adjustment







1  
2 in regard to the freight car repairs and depreciation  
3 which you have just spoken to; correct?

4 A. Yes, that is correct.

5 Q. The next item is transportation  
6 expenses, your statement number 407, which is exhibit  
7 65 in these proceedings, and the first item is fuel  
8 and crew wages. The reason for the revision, please?

9 A. The first reason was, the calculation  
10 based on fuel and crew wages separately, to which I  
11 have already referred, which made it possible to  
12 assign vacation expenses to crew wages directly.

13 The second was a change in way switching minutes, in  
14 way switching wages, were based on local freight only  
15 rather than on the total of local and through freight.

16 Q. The next item was train enginehouse  
17 expenses and other supplies, accounts 398 and 400,  
18 and the classification and explanation is shown on  
19 exhibit 132 to be a correction of a clerical error.  
20 There is nothing further you want to add to that?

21 A. No.

22 Q. Item 12, yard masters and clerks,  
23 yard expenses, yard other expenses: the changes here  
24 and the reasons for them, please?

25 A. These changes arose through restatement  
26 of yard time of the study traffic, as a result of  
27 additional yard studies on through classifications time  
28 and giving weight to switching under winter conditions.

29 Q. This is the matter you referred to  
30





1  
2 earlier?

3 A. Yes.

4 Q. The next item is train locomotive  
5 water, and exhibit 132 page 5 for this item shows  
6 as a note, "see explanations under items 3 and 10",  
7 which you have already spoken to, and I assume there  
8 is no further information you want to give to the  
9 Commission?

10 A. No.

11 Q. The next item is grain doors, and  
12 the change here -- will you please give your explanation?

13 A. This was to correct use of a wrong  
14 figure for car loads of the study traffic requiring  
15 grain doors.

16 Q. The next item is on page 6 of exhibit  
17 132, signal operation. The reason for that change,  
18 you state in a note, is the reason given under item  
19 4 on page 3 of exhibit 132. Nothing further you want  
20 to add?

21 A. No.

22 Q. The next item is loss and damage,  
23 freight: the reason for the change here?

24 A. This change resulted through applying  
25 a three year average in developing unit cost of loss  
26 and damaged grain to make it consistent of other parts  
27 of the study.

28 Q. The next item, train other supplies,  
29 classification account number 402; and the reason for  
30





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that change?

A. This was restated to reflect the heavy proportion of traffic which is grain in the western region, and the lower proportion of passenger to total in the west than on the system. This arose as a result of applying the same procedures which had been applied to account 402 to the western rather than to the system expense.

Q. Because of this special factor that you have mentioned?

A. Yes.

Q. That is, the disproportionate amount of passenger traffic east?

A. Yes.

Q. The next item, joint facilities and insurance, and your note on page 6 shows this arising from the adjustments you have explained earlier, and I assume there is not further comment needed?

A. No.

Q. The next item is cost of money, which is Mr. Stenason's statement 408, exhibit 66. The explanation here, Mr. Stenason, please?

A. First, restatement of freight car investment on a car-day rather than a car-mile basis; and, secondly, reduction of investment in yard locomotive arising from a reduction in switching time.

Q. The next item, solely related costs, and your note shows on page 6 of exhibit 132 that the







1  
2 reason for this change was the explanation you gave in  
3 respect of item 1 -- that was, under road maintenance --  
4 and also the reduction of 17.5 miles in solely  
5 related facilities. Anything you want to add in  
6 expansion of your note?

7 A. No, the reduction of 17.6 miles arose  
8 from re-examining a subdivision part of which was  
9 necessary -- 17.6 miles of which was necessary to re-  
10 claim a connection with non-solely related lines.

11 Q. Next item, the last under variable  
12 cost items, traffic and general, exhibit 68, and your  
13 note shows the adjustment here reflects the changes  
14 you have been describing?

15 A. Yes, that is correct.

16 Q. You show the results of these changes  
17 in total, on page 6 of exhibit 132, that the total  
18 of all the adjustments you have spoken to, the revisions,  
19 is to reduce the variable cost by \$664,875. That  
20 would be a change of what percentage?

21 A. Well, I haven't worked it out, but  
22 I can.

23 Q. Well, don't bother; somebody else  
24 can do it. It is obviously under 1%.

25 COMMISSIONER ANSCOMB: A little over.

26 MR. SINCLAIR: 664,000 on 52 million --  
27 is that right? About 1%?

28 A. Yes, about 1.7.

29 Q. Now, turning to page 7 of exhibit 132,  
30





1  
2 this has to do with the revision in constant costs,  
3 and this is all grouped here, so would you deal with  
4 this, please? This is exhibit 69.

5 A. By developing system constant costs  
6 from the constant in the regression equations, it was  
7 noted that proper weight was not given because, in  
8 some instances, the regression equation was based on  
9 the road divisions alone. A check also showed that  
10 total variable costs plus constant costs fell short  
11 of total railway operating expenses. Accordingly,  
12 a new procedure was applied by which constant costs  
13 were derived from total railway operating expenses  
14 and variable costs, passenger, and freight.

15 Q. We discussed earlier your change  
16 in signals whereby you had restricted your signal  
17 costs in the variable costs of moving the study traffic  
18 to signal maintenance, main lines excluding any signal  
19 expense for branch lines for train and highway crossings  
20 and protections of branch lines?

21 A. Yes.

22 Q. I asked if that would move any of  
23 that other into the constant and I think your answer  
24 was "yes"?

25 A. Yes.

26 Q. Your next item is, constant costs  
27 (mile of track) statement 412, exhibit 70 in this  
28 proceedings?

29 A. Yes, this arose from revision of miles  
30







1  
2 of track to reflect miles of track maintained rather  
3 than operated and elimination of joint section mileage.  
4

5 Q. Page 7 of exhibit 132 shows the  
6 effect of these revisions on constant, and then an  
7 increase of 1.7 million odd, and the net effect of  
8 all changes on the total cost is an increase of one  
9 million, and the percentage change of increase in the  
10 total cost, figures 1.55%, which you referred to  
11 earlier, is there set out.

12 Now, Mr. Chairman, and members of the  
13 Commission, those are the revisions arising from the  
14 suggestions made by various consultants that have  
15 been made and reflected in the figures before the  
16 Commission. Attached to exhibit number 132 are four  
17 pages of text dealing with suggestions made which did  
18 not result in revisions, and Mr. Stenason has set out  
19 these suggestions and the reasons why he did not make  
20 the revisions. I think that he should go through  
21 these one by one.

22 MR. FRAWLEY: I object, and I ask that these  
23 further pages be detached from exhibit number 132 and  
24 be not received. I do not quite understand why, Mr.  
25 Chairman, my friend would want to have the witness  
26 discuss some of the suggestions made to his people  
27 which were not implemented, and unless Mr. Stenason  
28 is prepared to deal with every single discussion and  
29 every single suggestion that was made to him by our  
30 consultants that he did not act upon, I say that no part





1  
2 of it should go in. Just what purpose does it serve  
3 to indicate he received certain suggestions and they  
4 were not acted upon. He has told us about the ones  
5 he acted on, and what is the purpose of saying, "we  
6 had discussion on other matters and we didn't act"?  
7 What is the purpose of it -- to add another statement of  
8 Mr. Stenason to the record? I say it is not complete  
9 and that it should be rejected.

10 MR. SINCLAIR: If there are other suggestions  
11 made that are not dealt with here, that are of any  
12 significance, the questions can be put to Mr. Stenason.  
13 Some of these suggestions were advanced by the Commission  
14 itself, and arising out of them special studies were  
15 done, and that is one of the ones I want to deal with  
16 in some detail and expand on what is here. Some of  
17 these suggestions were advanced not by Mr. Frawley's  
18 consultants; there was other consultants -- and one  
19 of these came from the Commission itself.

20 MR. FRAWLEY: Don't take any implication  
21 that I said "my consultant". In any event, I want  
22 a ruling on my objection, and I say it should be  
23 rejected.

24 MR. SINCLAIR: I told the Commission, in  
25 regard to one of these matters, that we would deal  
26 with it when Mr. Stenason came back.

27 MR. FRAWLEY: It is a matter of propriety  
28 and dealing with it in this way.

29 THE CHAIRMAN: Well, there is no reason why  
30







1  
2 the additional suggestions cannot be referred to.

3 MR. SINCLAIR: Oh, no.

4 MR. FRAWLEY: By whom, sir? I haven't  
5 an idea of the other matters. I am simply saying that  
6 I am advised this does not comprise all of the matters  
7 discussed by Mr. Stenason. It is very easy for my  
8 friend to say let counsel put other matters to Mr.  
9 Stenason, but at the moment I am completely uninstructed.  
10 He came in and put in statements and now he has deliberately  
11 added to his document four pages of text. It should  
12 not go in that way.

13 MR. SINCLAIR: Mr. Chairman, I indicated  
14 yesterday I would be prepared to deal, if the  
15 Commission wished, seriatim with each question put  
16 and each reply made, and I have them here. Copies  
17 of them all have been sent to the Commission. I am  
18 prepared to take the witness and the consultants that  
19 we have through these various things one by one, and  
20 here they are. These are requests made of the consul-  
21 tants and the answers given, copies of which have been  
22 sent to the Commission at their request.  
23  
24  
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1  
2 MR. FRAWLEY: How does that add to the  
3 value of this record?

4 THE CHAIRMAN: I think we will receive the  
5 reports as we have them and this memorandum that is  
6 attached, I suggest, can be put in in re-examination  
7 after Mr. Frawley is finished.

8 MR. SINCLAIR: With all due respect, I  
9 have an undertaking to present this evidence to the  
10 Commission, particularly in one aspect of it but if that  
11 is your ruling then I bow to it.

12 THE CHAIRMAN: I think it will save time.

13 MR. SINCLAIR: I take it the Commission  
14 does not wish me to deal with all of the requests made  
15 that I am now prepared to deal with and file exhibits.

16 THE CHAIRMAN: I think we will proceed  
17 with the cross-examination and then those requests  
18 that are regarded as material you can deal with in the  
19 re-examination. I have no doubt there will be some  
20 requests that do not bulk so large as others and it would  
21 be a waste of time if we took up time in that connection.

22 MR. SINCLAIR: I take it then the exhibit,  
23 notwithstanding the fact that the objection is only now  
24 being made, these are sheets of the text at the end.

25 THE CHAIRMAN: The text at the end will be  
26 left out until re-examination.

27 MR. SINCLAIR: Very well, sir. Mr.  
28 Stenason, please answer my friends.

29 THE CHAIRMAN: Now, gentlemen, as you  
30 know we are changing somewhat the procedure in cross-





1  
2 examination. Previously counsel for the Commission  
3 has gone first, but now we are having counsel for the  
4 Commission go after counsel for the provinces. Mr.  
5 Mauro, I understand, is first.

6 MR. MacKIMMIE: Mr. Chairman, before Mr.  
7 Mauro commences his examination, I have spoken to him  
8 in the last couple of days and Mr. Mauro wishes to  
9 start the cross-examination. I wondered if counsel  
10 would have any objection to my following Mr. Mauro.  
11 I will not be more than an hour and the reason for my  
12 request of counsel is that through discussions with  
13 staff Mr. Saunders who is my consultant, would like  
14 very much to get back to Washington to prepare a  
15 precis which has more or less a deadline date on it.  
16 I would like at this time to ask if I may follow Mr.  
17 Mauro?

18 THE CHAIRMAN: Will that be agreeable,  
19 Mr. Mauro?

20 MR. FRAWLEY: Inasmuch as the only cross-  
21 examiners that I know of are Mr. Mauro, Mr. MacKimmie  
22 and myself, Mr. MacKimmie does not have to put a formal  
23 request to me, I will allow him to go on after Mr.  
24 Mauro.

25 THE CHAIRMAN: We will direct that after  
26 Mr. Mauro finishes you may go on, Mr. MacKimmie.

27 MR. MacKIMMIE: Thank you, sir.  
28  
29  
30







CROSS-EXAMINATION BY MR. MAURO:

Q. Mr. Stenason, would you please turn to page 2594 of Volume 18 of the daily transcript. Throughout the cross-examination I will be referring to the transcript and your exhibit. The first complete paragraph, Mr. Stenason, on page 2594 reads as follows:

"The variability of other categories of equipment maintenance was examined in terms of their behaviour and characteristics of the expense account. Variability of these expenses is as follows:

1. Freight car repair expenses are completely variable with use and time;
2. Steam locomotive repair expenses are completely variable with steam locomotive miles;
3. Diesel locomotive repair expenses, treated separately for road and yard, are completely variable with diesel locomotive miles road and yard.

Using 100 per cent variability, the analysis was then based upon the dollars in the accounts concerned in 1958 adjusted to wage and price levels existing at December 31, 1958."





1  
2 On Exhibit 64, statement 406, the total  
3 of items 308 to 311, 331 -- these are the account  
4 numbers -- 308, 311, 331, 314 and 331 or lines 12, 13,  
5 14, 15, 16, 17, 19 and 20 total, according to our  
6 calculation \$10,618,000 for repairs and depreciation.  
7 In addition, Exhibit 64, statement 408, lines 4 to 10  
8 inclusive add an additional \$7,218,00 for the cost  
9 of money or a total charged in this item to grain of  
10 \$17,836,000 plus the overhead cost.

11 MR. SINCLAIR: Does this reflect the  
12 changes of --

13 MR. MAURO: No, it does not.

14 Q. Now, in a letter addressed to our  
15 consultant, Mr. R.L. Banks of May 6, Mr. Stenason, in  
16 dealing with the variability in respect to road and  
17 yard locomotives and freight car repairs depreciation  
18 and cost of money, you stated that treatment of 100  
19 per cent variability is based upon a great many  
20 considerations including some mathematical analysis,  
21 the way in which repairs are carried out, the treatment  
22 of time as reflected in the cost study and other factors.  
23 Now, due to the size of this cost factor in the move-  
24 ments of statutory grain I wondered if you would please  
25 detail for us the various mathematical analysis upon  
26 which your assumption of 100 per cent variability rests?

27 A. There is one mathematical analysis and  
28 this has to do with freight car repairs. Unfortunately,  
29 in the equipment accounts it was not possible to use  
30 cross section regression methods to determine variability





1  
2 because we do not have separate expense accounts and  
3 mileage consistently for a single division. The  
4 mathematical analysis undertaken on freight car repairs  
5 was a distributed lag time series method in which  
6 freight car repair expenses were related to freight  
7 car miles. Now, by a "distributed lag" is meant that  
8 the expense is taken as a function of car miles this  
9 year and a declining function of car miles in the  
10 previous year. Other considerations underlying the  
11 treatment of 100 per cent variability are as follows:  
12 Insofar as locomotives are concerned, the way in which  
13 these locomotives are maintained, fully maintained on a  
14 mileage basis through preventive maintenance, there is  
15 a direct connection between the mileage and the loco-  
16 motive and the movement of the study traffic. The  
17 same applies, the same locomotives are applied to  
18 some locomotives on Canadian Pacific in 1958 since  
19 the annual repairs performed to some locomotives were  
20 running repairs. There were no major repairs under-  
21 taken of any magnitude. This would, therefore,  
22 place some locomotive repairs on a locomotive mileage  
23 basis; the more miles that are run the more the expense  
24 to a proportionate degree. Insofar as depreciation  
25 and cost of money are concerned, the treatment of 100  
26 per cent variability is based on the treatment of  
27 time in the cost study. For instance, in car days  
28 or on car investment we have taken the car days and  
29 related the car days of the study traffic and have  
30 developed an investment cost based upon car days.







1  
2 If grain did not move the car then would not or in  
3 regard to the investment would not be necessary.

4 I would like to add that throughout the equipment  
5 account we are concerned with long-term availability  
6 in which there is sufficient time to make your adjust-  
7 ment to investment and to equipment treatment. Our  
8 100 per cent variability on equipment is not new, for  
9 instance, Senate document 63 which was pretty well the  
10 first development on variability analysis in railway  
11 costs took these equipment accounts at 100 per cent  
12 variable and it is reflected in other studies as well.

13 Q. So these are the underlying factors upon  
14 which you assume the 100 per cent variability that you  
15 mention in your letter to Mr. Banks?

16 A. Well, upon which the 100 per cent  
17 variability was based.

18 Q. Can you tell us how far back you went  
19 with this time series analysis?

20 A. There was no time series analysis on  
21 locomotive repairs. The time series analysis on  
22 freight cars was taken back to the mid-thirties --  
23 I will have to check that.

24 Q. You could not tell us the exact year?

25 A. Yes I will get you that.

26 Q. I assume then, Mr. Stenason, from what  
27 you have just told us as to long-term analysis that you  
28 estimate that the mid-thirties, we can take it that  
29 the mid-thirties is a long-term analysis in the  
30 definition which you have presented?





1  
2 A. That is right, the period which would  
3 permit adjustment to take place in the flat so this  
4 does reflect the long-term in this particular account.

5 Q. Now, page 2445 Volume 17 at the bottom  
6 of the page, in reply to a question by counsel for the  
7 C.P.R., the question was:

8 " Q. Would you go on? Had the extent of Canadian  
9 Pacific operations any effect in the work you  
10 were doing?

11 A. Yes. The Fact that Canadian Pacific is a  
12 railway which operates across Canada in widely  
13 different geographical areas with different  
14 operating and investment characteristics makes it  
15 possible to obtain a cross-section of railway  
16 costs under uniform maintenance practices without  
17 the difficulties which result when analyses are  
18 made involving a number of different railways."

19 Mr. Stenason, I wonder if you could advise  
20 us what you have in the way of minutes, instruction  
21 sheets, descriptions or written material upon which  
22 you base this claim of uniformity?

23 A. Well, this claim of uniformity was by  
24 a discussion with our road maintenance and track  
25 maintenance officials. What is meant here is the  
26 Canadian Pacific has a chief engineer who is responsible  
27 for the standards of maintenance and that maintenance  
28 practices are adjusted in a uniform way to the different  
29 characteristics of different lines of Canadian Pacific.

30 Q. Surely a system as large as the Canadian







1  
2 Pacific stretching across this great area if they are  
3 to practice uniform maintenance would have to reduce  
4 instructions and directions to writing. There must  
5 be some document, some manual directing the uniform  
6 practice.

7 MR. SINCLAIR: Do you want to speak to the  
8 engineer of traffic? I take it this is in order  
9 rather than calling the engineer?

10 THE CHAIRMAN: Oh yes.

11 A. Yes, we have a set of rules.  
12  
13  
14  
15  
16  
17  
18  
19  
20

21 Page 11681 follows.  
22  
23  
24  
25  
26  
27  
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30





1  
2 Q. I wonder if we could -- we have received  
3 a manual from the Canadian National Railway. I wonder  
4 if the C. P. could make available to our consultants the  
5 manual or regulations or rules on road maintenance on the  
6 Canadian Pacific Railway.

7 MR. SINCLAIR: Is the question that he would  
8 like us to file it?

9 MR. MAURO: No, just make it available.

10 MR. SINCLAIR: Yes, sir.

11 MR. MAURO: Q. Mr. Stenason, do you know how  
12 uniform road maintenance varies from the main line to the  
13 branch line?

14 A. I have some knowledge; not a detailed  
15 knowledge.

16 Q. What would be the variation on the solely  
17 related branch lines on track maintenance?

18 A. I am afraid I don't understand the  
19 question.

20 Q. What about the uniform practices of  
21 maintenance as it relates to solely related branch lines  
22 or branch lines as opposed to main line maintenance?

23 A. We answered a number of questions on  
24 this letter of May 6, a letter to Mr. Banks, as to  
25 specific maintenance practices.

26 Q. Tell me that part of the letter which  
27 points out the -- I will read it to you from page 4  
28 and we will see if it is the same letter that was sent.

29 "Maintenance practices of Canadian Pacific in  
30 respect of road maintenance fall under the juris-  
diction of the Chief Engineer. Maintenance





1  
2 "practices are uniform across the system, depending  
3 upon track designation.

4 For mainlines -- 3,170; for branchlines --  
5 2,905. These figure do not make any allowance  
6 for switch and bridge ties."

7 A. Yes.

8 Q. Moving on to your treated wooden ties,  
9 \$3.04 each; untreated wooden ties, \$2.07 each.

10 "These are the only types of tie used on Canadian  
11 Pacific."

12 And the answer:

13 "All treated ties are pre-bored before treatment"

14 Now, if you gave me the answer, I don't have  
15 it here.

16 A. This has to do with the general question,  
17 the C. P. R. maintenance as applied in prairie regions:

18 (b) the use of tie plates -- the answer is yes.

19 (c) the use of relay ties -- the answer is no. (d) rail  
20 props -- the answer is no. (e) reforging of new bars  
21 --- the answer is no.

22 Q. Now, are there any differences between  
23 the maintenance practices on main or branch lines that  
24 are not reflected in your letter of May 6?

25 A. Well, maintenance practices would differ  
26 between main and branch lines as the result of traffic  
27 volume. A branch line is a branch line because of its  
28 light traffic volume; a main line is a main line because  
29 of its heavy traffic volume, and then you have the  
30 amount of labour, inspection labour, and so forth.

COMMISSIONER MANN: Mr. Stenason, do you have







1  
2 a five-class division of maintenance practices as the  
3 C. N. R. does, track maintenance?

4 THE WITNESS: We have a classification.  
5 I don't know if it is a five-class. I will just check  
6 that. It is a four-class classification.

7 COMMISSIONER MANN: And are all your branch  
8 lines maintained at the same class standard of maintenance  
9 or would there be variations on branch lines?

10 THE WITNESS: There would be some variation  
11 in branch lines.

12 COMMISSIONER MANN: Thank you.

13 MR. MAURO: Q. Is there information available,  
14 Mr. Stenason, that would point up the amount of labour  
15 used per mile on branch line as opposed to main line,  
16 the degree of inspection, whether it is manual inspection  
17 or otherwise?

18 A. We undertook a special study in connection  
19 with the grain study in which we went back to these time  
20 records for prairie region branch lines and obtained  
21 the actual expenses during the three years 1956, 1957 and  
22 1958. Now, included in the work papers would be the labour  
23 cost for the branch lines.

24 Q. Perhaps, Mr. Stenason, if that special  
25 study were made available the information could be  
26 ascertained by our consultants.

27 A. Yes. We don't have the special study in  
28 Ottawa, but we could get the material for you.

29 Q. And perhaps at the same time you could  
30 indicate the replacement rates of branch lines in these  
three years, whether it was four or five or six per cent,





1  
2 tie replacement.

3 A. That, I think, would be more difficult.  
4 The only figures we had in this study were the actual  
5 labour costs that were taken off. We will see what we  
6 can do.

7 Q. Now, under the particulars of variable  
8 costs on page 2456, volume 17, there appears an item  
9 "Joint Facility Rents, Taxes and Interest -- \$15,485,000".  
10 I wonder if you could give us a breakdown as to what  
11 is included in the item and where the taxable property  
12 is located by provinces.

13 A. I didn't hear the latter part of your  
14 question.

15 Q. And where the taxable property is located  
16 by provinces.

17 MR. SINCLAIR: You mean by amounts and by  
18 provinces?

19 MR. MAURO: Yes, amounts would be fine.

20 MR. SINCLAIR: We have to break that out.

21 THE WITNESS: We will have to prepare that  
22 for you, particularly in the breakdown by province.

23 MR. MAURO: Q. Turning to page 2469, volume  
24 18, the third paragraph down:

25 "A routing pattern for the movement of cars of  
26 grain from each station was established by field  
27 studies. This enabled the route miles to be  
28 developed by railway subdivisions for the loaded  
29 movement from each station of origin to each  
30 station of destination. The multiplication of tons  
and the route miles from each origin station







1  
2 "provided revenue ton-miles from each station and  
3 the number of loaded cars times the route miles  
4 from each origin station provided loaded car-  
5 miles from each station. The revenue ton-miles and  
6 loaded car-miles figures were thus developed for  
7 each subdivision."

8 Now, if this routing pattern, Mr. Stenason,  
9 resulted in an indirect loss of a direct route, it would  
10 result in increased mileage and decreased revenue per  
11 ton mile.

12 A. Yes, that is correct -- although this  
13 was very thoroughly tested. Perhaps I should explain  
14 the basis of the routing analysis. There was a study  
15 taken in which the despatchers were asked to take the  
16 normal routing at each station. This was thoroughly  
17 reviewed by the despatchers in the district and the  
18 regional chief despatchers, and so forth. After the  
19 routing was treated we then tested it by taking a sample  
20 of the cars moved. This routing analysis has the effect,  
21 if anything, we think, of understating the miles involved,  
22 because it takes no account of detours or other factors  
23 arising from operations.

24 Q. The normal routing wouldn't necessarily be  
25 the direct routing where grain was involved. You might  
26 have a normal routing pattern for the movement of grain  
27 to fit into the better operation of rail management,  
28 but it would not necessarily coincide with the direct  
29 route.

30 A. I would say that the routing pattern over  
which the grain moves is, I would say, universally the





1  
2 minimum cost way of moving the grain.

3 Q. Well, we will get into the actuality  
4 of that practice, Mr. Stenason. The point I am making  
5 here is that if, in fact, the routing pattern used was  
6 not the most direct method of moving the grain to points  
7 of export, this would result in increased mileage, decreased  
8 revenue per ton mile, and you said that the principle  
9 which I enunciated is correct.

10 A. If you make the assumption, yes.

11 Q. And if this basic factor of route miles  
12 is incorrect, then this would be reflected and compounded  
13 in your revenue ton miles, your gross ton miles and your  
14 loaded ton miles?

15 A. The routing pattern is reflected in the  
16 basic output statistics.  
17  
18  
19

20 (Page 11691 follows)  
21  
22  
23  
24  
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26  
27  
28  
29  
30





1  
2 THE CHAIRMAN: Order, please.

3 MR. MAURO: Q. Mr. Stenason, in order  
4 to accurately determine the cost associated with the  
5 study traffic you had to first determine the number  
6 of cars handled?

7 A. Yes, that is correct.

8 Q. And, as I understand your testimony,  
9 the number of cars handled was determined by calculating  
10 the number of loaded cars passing through each terminal  
11 on the prairie and pacific regions, and from this  
12 you arrived at the number of cars handled at each  
13 terminal?

14 A. This is basic to the switching studies.  
15 The number of cars loaded were determined from special  
16 studies of station records which showed the revenues,  
17 cars and tons of statutory and related grain originated  
18 at each station.

19 Q. Dealing with the basic factor that  
20 was utilized in the switching time -- and I think I  
21 correctly stated what you said at page 2471:

22 "The number of car loads of the study  
23 traffic was determined from the way bills. The number  
24 of loaded cars passing through each terminal on the  
25 prairied and pacific regions was developed from the  
26 routing of the traffic. This gives loaded car handlings  
27 at each terminal."?

28 A. Yes.

29 Q. Could you tell me what are the terminals  
30







1  
2 that a car would pass through from Winnipeg to Fort  
3 William?

4 A. Yes.

5 MR. SINCLAIR: Does Mr. Mauro mean a loaded  
6 car -- loaded at Winnipeg?

7 MR. MAURO: Yes.

8 MR. SINCLAIR: Originate in Winnipeg?

9 MR. STENASON: They would be Winnipeg,  
10 Kenora and Ignace.

11 MR. MAURO: Q. And Fort William?

12 A. And Fort William.

13 Q. So that if a car left Winnipeg it would  
14 appear for switching purposes, for this basic factor  
15 of switching, at Winnipeg, Kenora, Ignace and Fort  
16 William?

17 A. Yes, it would be a classification at  
18 each of these points. You appreciate, of course, that  
19 the industrial work has nothing to do with car handlings.

20 Q. So that your figure of car handlings  
21 was the sum of the cars passing through the terminals  
22 mentioned -- Winnipeg, Kenora, Ignace and Fort William?

23 A. That is correct; wherever classification  
24 work was done to a through loaded car of grain.

25 Q. But isn't it a fact that the cars  
26 passing through a number of terminals without being  
27 rehandled?

28 A. Here I think we should get into a  
29 discussion on classification and why is meant by it.  
30





1  
2 Classification time, as reflected in cost studies,  
3 is any work done to a train which contains through  
4 cars passing through a terminal. Now, the work may  
5 vary from changing a caboose or pulling bad order cars  
6 at a terminal to taking through cars out of one  
7 train and putting them into another, and, in some cases,  
8 storage.

9 Q. I say to you that, as you have  
10 previously admitted, in utilizing this factor of  
11 cars handled for switching purposes you took the sum  
12 of the cars moving through the points from Winnipeg  
13 to Fort William, namely, Winnipeg, Kenora, Ignace and  
14 Fort William, and used that as a sum total?

15 A. That is our estimate of the number of  
16 car handlings which were required.

17 Q. And I say further that any trains of  
18 grain leaving Winnipeg bound for Fort William, that  
19 they would pass through Kenora, Ignace and to Fort  
20 William without being rehandled in any way at intermediate  
21 points?

22 A. That is not correct. That is simply  
23 not the way the traffic is handled.

24 Q. I refer you to, and ask your comments  
25 on, certain material and evidence submitted by Mr.  
26 Arkle, with whom you may be familiar.

27 MR. SINCLAIR: This is Mr. H. Arkle, the  
28 traffic manager?

29 MR. MAURO: Yes, that is the gentleman, who  
30







1 had spent, I understand, approximately 40 years in the  
2 western region.

3 MR. SINCLAIR: Yes, he started out working for  
4 the man who set up what is now the United Grain Growers.

5 MR. MAURO: Q. This evidence, Mr. Stenason,  
6 was dated at Ottawa, Ontario, May the 25th 1953 in a case  
7 entitled re removal of hold-down of Crow's Nest Pass  
8 rates on grain and grain products between prairie points  
9 and Fort William. Reading from page 8012, he is asked  
10 a question, by I don't think it is anyone less than my  
11 learned friend Mr. Sinclair:

12 "Would you tell the Board, Mr. Arkle, whether  
13 traffic conditions are similar in the movement of  
14 grain for local consumption, grain products for local  
15 consumption within western Canada and grain and  
16 products moved to Fort William?

17 A. There are substantial differences in how  
18 grain is carried if it is destined locally within  
19 western Canada and if it destined to Fort William.

20 Q. Can you give us an example?

21 A. There are differences between local grain  
22 and Fort William grain in the volume transported,  
23 that is one.

24 Q. Yes.

25 A. And the contract of carriage is two.

26 Q. And the minimum weight governing grain  
27 products, and the further transportation charges  
28 that are contemplated when the traffic moves."

29 Now, Mr. Sinclair then asks:  
30





1  
2 "It might be wise, Mr. Arkle, and it would  
3 be of some assistance to the Board, if you would  
4 explain a little more and tell the Board the  
5 differences, for instance, on each of those  
6 categories that you speak of. Take the volume  
7 first. Why do you say that the volume to Fort  
8 William is a significant difference compared  
9 to the volume of local mileage grain and products?

10 A. The movement to Fort William is virtually  
11 in solid trains handling maximum tonnage with  
12 minimum of switching of terminal work both in  
13 transit and at Fort William.

14 Q. Yes.

15 A. Grain and grain products moving locally  
16 within western Canada invariably entail the fre-  
17 quent handling of single cars.

18 Q. Yes. Now does all grain moving to  
19 Fort William channel in at a single point on the  
20 Canadian Pacific, for instance?

21 A. Yes, it comes into Winnipeg and then  
22 is made up in solid trains, they are termina-  
23 led there and moved to Fort William in solid train  
24 loads."

25 I wonder, firstly, Mr. Stenason whether you agree with  
26 Mr. Arkle that grain trains leaving Winnipeg move in  
27 solid train loads with maximum tonnage rate and termin-  
28 aled to Fort William?

29

30





1  
2 A. No sir; there are certain times during  
3 the year when grain is handled in that way.

4 Q. So, do you think Mr. Arkle was wrong  
5 there in giving that evidence for the hold-downs?

6 A. Well, we have studied the way in  
7 which grain is handled. I think, from what you have  
8 read to me, that Mr. Arkle was concerned more than  
9 anything else with the amount of local switching which  
10 is involved with domestic as opposed to export grain,  
11 and this is quite true; there is much more local  
12 switching.

13 Q. I understand Mr. Arkle was in that  
14 region for approximately 40 years: how long did you  
15 study this situation?

16 MR. SINCLAIR: All his life; that is in  
17 evidence.

18 MR. MAURO: Whose life?

19 MR. SINCLAIR: Mr. Stenason's life.

20 MR. MAURO: Q. How old are you, Mr.  
21 Stenason?

22 A. 29.

23 Q. And assuming that you didn't start  
24 before you were three, we will give you 26 years.

25 COMMISSIONER BALCH: Is Kenora an inspection  
26 point?

27 MR. STENASON: For Canadian Pacific, yes  
28 it is.

29 COMMISSIONER BALCH: And Ignace too, is that  
30







1  
2 an inspection point?

3 MR. STENASON: Yes, there is some inspection  
4 between terminals. Kenora is a much more important  
5 inspection point.

6 COMMISSIONER BALCH: Of course, they would  
7 discover if they have any bad order cars at Kenora?

8 A. Yes, sir, and occasionally they have  
9 to change tonnage. If it is true that Canadian Pacific  
10 operates tonnage trains of grain at certain times of  
11 the year, there must be a change in tonnage.

12 COMMISSIONER BALCH: So, although there  
13 is maybe a solid train for Fort William, there is  
14 a certain amount of breaking up, probably, at Kenora  
15 and Ignace?

16 MR. STENASON: Oh, yes. We have studied  
17 this through our additional yard teams. We have  
18 actually studied the work done to through cars --  
19 that is, cars originating on a through train and depart-  
20 ing a terminal on a through train.

21 COMMISSIONER BALCH: What is the controlling  
22 grade between Winnipeg and Fort William? Have you any  
23 idea?

24 MR. STENASON: Well, I am taking this with  
25 a 1600 horse power diesel, and the controlling grade  
26 from Winnipeg to Kenora is 3300, and then into Fort  
27 William 1900.

28 COMMISSIONER BALCH: So, there would be  
29 a definite reduction?  
30





1  
2 MR. STENASON: Pardon me; that is east  
3 bound. 2640 right through to Fort William.

4 COMMISSIONER BALCH: All the way through?

5 MR. STENASON: Yes.

6 MR. SINCLAIR: Just a minute; Mr. McGinn  
7 has said that is not correct.

8 MR. STENASON: It is 3300 all the way through.

9 COMMISSIONER BALCH: All the way from  
10 Winnipeg to Fort William?

11 MR. STENASON: Yes.

12 MR. MAURO: Q. You were mentioning about  
13 tonnage variations at Kenora. As I understand it,  
14 there are no tonnage changes at Kenora -- it is the  
15 same tonnage in and out of Kenora east bound to Fort  
16 William -- the same tonnage rate?

17 A. There is the same tonnage rating for  
18 a similar locomotive from Winnipeg to Fort William.

19 Q. So that that locomotive leaving  
20 Winnipeg with its classified tonnage rating would be  
21 no reason for changing cars at Kenora in adjusting  
22 its tonnage -- it is the same engine and the same  
23 rating east of Kenora as it was when it left Winnipeg?

24 A. I want to check this. I believe there  
25 was a difference in 1958.

26 Q. You could let us know if there is any  
27 change in the tonnage rating east or west of Kenora.  
28 The other thing I would like you to check is in connection  
29 with what Mr. Balch has asked you. You mentioned you  
30







1  
2 do some additional work at Kenora, and we would like  
3 you to ascertain whether that work is done for the  
4 through cars of grain or for the other cars that may  
5 be in the train in switching them out -- bad order cars  
6 or changing of the cabooses?

7 A. Well, bad order and cabooses are both  
8 factors which apply to everything on a through train --  
9 grain or non-grain.

10 Q. Yes. Well, these are the two that  
11 Commissioner Balch has mentioned, but would you tell us  
12 or later submit the information on what other work you  
13 would do on through cars of grain at Kenora and at  
14 Ignace?

15 A. Well, the changing of cars from one  
16 train to another is one factor; the storage of cars --  
17 and storage does take place, of grain, at Kenora at  
18 certain times of the year.

19 Q. Why would you change cars from one  
20 train to another if the tonnage rating is the same all  
21 the way from Winnipeg to Fort William?

22 A. Because this is the most economical  
23 way of handling the traffic. There are not solid grain  
24 trains.

25 Q. You mean you are switching just to  
26 switch the train?

27 A. No, we are not switching to switch the  
28 train.

29 Q. Wouldn't it be more economical not to  
30





1  
2 switch all of these cars from one train to another train,  
3 and operate this train right through when it has the  
4 same tonnage rating?

5 A. This is assuming there is enough volume  
6 of grain every day of the year to make up a solid train  
7 of grain all the way to Fort William.

8 Q. We are just dealing with the fact that  
9 you told us there are a certain number of cars of grain  
10 going to Fort William, and I suggested to you on the  
11 evidence of someone well reputed before this Board and  
12 others, that grain leaving Winnipeg would leave in  
13 train load amounts with maximum tonnages, and then I  
14 asked you whether the rating from east of Kenora was  
15 the same as west of Kenora, and you said yes, and I  
16 started by asking you whether you built up your switching  
17 time in determining the cars through Kenora, Ignace  
18 and Fort William, and you said yes, and I suggested  
19 you were over stating the costs of switching because  
20 there were many of these cars which pass through Kenora  
21 and Ignace that were not switched.  
22  
23  
24  
25  
26  
27  
28  
29  
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1  
2 A. No, we have studied the movement of the  
3 traffic as it occurred.

4 COMMISSIONER BALCH: Just a minute; would you  
5 have any idea or record of what percentage a through  
6 train can have from Winnipeg to Fort William? I mean,  
7 the solid trains of grain because it may be a very small  
8 percentage.

9 A. It is, sir, and it applies only during the  
10 peak summer when navigation is open. I have a sample and  
11 I can report that to you.

12 MR. MAURO: Q. Now, at page 2479,  
13 Mr. Stenason, of volume 18, active cars days is the  
14 next assessment:

15 "Active cars days for the loaded and empty move-  
16 ments for the study traffic were taken from the  
17 sample of 3,700 box cars. Active car days  
18 represents all the time the cars were under load  
19 plus the time of the related prior empty movement.  
20 All storage and repair times have been excluded  
21 from active car days. From the sample, total  
22 active car days for the total study traffic were  
23 obtained."

24 Now, the time that a train is under load  
25 would be affected by traffic conditions, I assume?

26 A. You mean the time that a train is in  
27 transit?

28 Q. No, loaded.

29 A. That a train is under load?

30 MR. SINCLAIR: You mean cars under load?

MR. MAURO: Q. I am sorry, yes.







1  
2 A. Well, it would depend on the speed at  
3 which the traffic was moving, the speed of the train.

4 Q. In your opinion are active car days,  
5 loaded car days a proper index of the traffic volume?

6 A. They reflect the time in transit of the  
7 traffic.

8 Q. Do they not also reflect, as I say, the  
9 traffic conditions not brought about by the commodity  
10 itself and do they not reflect managerial decisions as  
11 to the method, the base method that management decides  
12 on movement of this commodity?

13 A. They reflect the way in which the traffic  
14 moves, the way in which the traffic moves depends on a  
15 great many considerations.

16 Q. Would not loaded car miles be a good  
17 index of the traffic?

18 A. Loaded car miles is the number of miles  
19 that loaded cars move. With the study traffic it is a  
20 good index of the traffic in that sense.

21 Q. I have some idea of what it was,  
22 Mr. Stenason. My question was, would it be, as opposed  
23 to active car days, would it give a better reflection of  
24 the traffic being moved?

25 A. No, I would not think so. The reason  
26 why we are using active car days is to reflect the time  
27 dimension for the movement of the traffic; loaded car  
28 miles say nothing about time.

29 Q. If we wanted to compare the total traffic  
30 handled by the Canadian Pacific from year to year, would  
loaded car miles be a good index to use?





1  
2 A. Well, if you want to compare the total  
3 traffic handled by Canadian Pacific from year to year,  
4 I suggest you use gross ton miles or revenue ton miles.

5 Q. Gross ton miles instead of loaded ton  
6 miles?

7 A. Revenue ton miles.

8 Q. Well, to give me a straight answer,  
9 would it be a suitable index, in your opinion, if we  
10 wanted to test the traffic on the Canadian Pacific  
11 Railways over the years to use loaded car miles as  
12 giving an index of the actual amount of traffic being  
13 handled?

14 A. Yes, I think that for certain purposes  
15 loaded car miles would be indicative of trend. It is  
16 a very difficult question to answer because every  
17 statistic which is used depends on the purpose for which  
18 it should be used.

19 Q. Page 2483, Mr. Stenason, Volume 18:

20 "The total engine minutes were the number of  
21 cars of the study traffic handled multiplied by  
22 the average time required to move each car. The  
23 number of car handlings during each phase of the  
24 movement of the study traffic was obtained from  
25 the study of the basic units of transportation  
26 service described earlier."

27 Now, the switching minutes attributable to  
28 grain passing through areas, I understand, is approxi-  
29 mately 5 million minutes?

30 A. Yes, there was a revision here made as  
a result of the further field studies.







1  
2 Q. What is the new revised figure?

3 A. 4,311,563 minutes.

4 Q. So that grain minutes attributable to grain  
5 passing through yards is something slightly less than  
6 48 per cent of the total switching minutes?

7 A. Yes.

8 Q. And if, as we previously suggested that  
9 the car handling that you attribute to grain moving  
10 through these various terminals has been overstated,  
11 then this figure of 4,311,000 is incorrect?

12 A. Well, I would again like to repeat that  
13 we have measured the switching work done to through cars  
14 at these terminals.

15 Q. Would you turn to page 2487, the last  
16 answer on the page:

17 "The combination of elements of switching service  
18 applicable to the handling of a through or local  
19 car of grain or grain products in each yard was  
20 provided by the yardmaster."

21 I was wondering if you could tell us what  
22 you meant by a local car of grain?

23 A. Well, this would be a car at Vancouver,  
24 let us say, which arrived on a train from Calgary, went  
25 initially to the classification yard and was later  
26 moved from the classification yard to an elevator. The  
27 various elements of switching which were done to that  
28 car were attained as a result of the analysis of the  
29 steps that the car followed in getting from the classi-  
30 fication yard to the elevator.

Q. Would you describe for us the difference





1  
2 between a through car of grain at Vancouver and a local  
3 car of grain at Vancouver?

4 A. The car would be local at Vancouver --  
5 the word "local car" refers -- I was going on to milling  
6 in transit traffic, refer to milling in transit traffic  
7 where the car arrives on a train at Kenora and is taken  
8 off the train and put on a mill.

9 Q. That is the distinction, a local car  
10 would be one being milled in transit?

11 A. Yes.

12 Q. And the through cars going to export  
13 points?

14 A. Yes.

15 Q. At page 2494 after you enumerate you  
16 state:

17 "The time per car for services performed handling  
18 cars from point of origin to destination was then  
19 applied to the number of grain and grain product  
20 cars used in that service during 1958 giving the  
21 time spent switchikng the study traffic during  
22 1958."

23 Now, Mr. Stenason, am I correct in assuming  
24 that the allocated switching minutes to grain traffic  
25 is as follows: You determine the total number of cars  
26 handled, for instance, at the Winnipeg yard?

27 A. Yes.

28 Q. And then you determine the tðal switching  
29 minutes for all of the cars handled at the Winnipeg yard?

30 A. Well, no. The Winnipeg yard was broken  
down into a number of elements of switching, one of which  
was classification, another of which was milling in





1  
2 transit traffic and each mill is a separate element of  
3 switching. Now, the way in which classification was  
4 counted was the time spent by yard engines in classifi-  
5 cation and the number of cars handled in classification  
6 during the four-day study period.

7 Q. You then took each of these elements and  
8 came up with a total figure attributable to that element  
9 of switching?

10 A. Yes.

11 Q. And then you determined the percentage  
12 that grain cars handled were to the total?

13 A. No, we developed a unit time which was  
14 applied to the grain cars handled during the year in  
15 each element of switching.

16 Q. Well, did not the total time -- how did  
17 you arrive at the unit cost? Did you not take the  
18 total time and divide it by the number of cars?

19 A. Yes, that is correct, that unit time is  
20 then applied to the number of cars of grain during the  
21 year which received that particular element of work.

22 Q. Your classification was made, I believe,  
23 on grain and industrial, you took the total number of  
24 minutes for classification and developed a unit time for  
25 each car?

26 A. For each car handled in the classification  
27 yard.

28 Q. Well, classification is an element of  
29 switching?

30 A. Yes.

Q. And I understood you to say you broke it







1  
2 down and made a study of the various elements of  
3 switching?

4 A. Yes.

5 Q. We are now talking of classification as  
6 an element of switching?

7 A. Yes.

8 Q. And you estimate the total time taken  
9 at the Winnipeg yard for classification?

10 A. Yes.

11 Q. And you took the number of cars of grain  
12 handled in the Winnipeg yard?

13 A. In classification in the Winnipeg yard?

14 Q. And divided it into the total and arrived  
15 at an average cost per car handled?

16 A. I think we are off the rails again. The  
17 unit time for classification was developed on the basis  
18 of all cars handled during the four-day study period.  
19 This developed a time per car and that time per car was  
20 then multiplied by the number of cars of grain handled  
21 during the year.

22 MR. MAURO: That is what I started out by  
23 saying.

24 COMMISSIONER ANSCOMB: As simple as can be.

25 MR. MAURO: Q. I certainly want to apologize  
26 to the Commission, but that is exactly the statement I  
27 started out with by saying that he took the total time  
28 and divided it by the number of cars. Now, my question  
29 is that this method assumes that grain should be charged  
30 the same average switching minutes as other cars handled?

A. That is right, in classification.





G/RL  
aw

1

2

Q. Including industrial switching to sidings?

3

A. No, sir, that is another element of

switching and it is treated separately.

5

COMMISSIONER BALCH: Mr. Stenason, if the

other cars were not on the train there wouldn't be any

switching. In other words, you would have to switch

the cars from the cars loading grain which, of course,

would make the switching necessary.

10

THE WITNESS: Yes. Well, the train will

come in with grain and non-grain traffic, and the switching

has to be done for the whole train.

13

COMMISSIONER BALCH: Regardless of whether

it is grain or not?

15

THE WITNESS: Yes.

16

COMMISSIONER BALCH: Which entails switching

for the grain cars?

18

THE WITNESS: Yes.

19

MR. MAURO: Q. You are assuming that there

would be similarity of switching times for cars carrying

different commodities?

22

A. Under classification.

23

Q. I am referring you to the C.N.R. Exhibit

57 PP, page 3.

25

MR. SINCLAIR: NR 2-6. Is that the one?

26

MR. MAURO: Yes.

27

Q. Have you that before you, Mr. Stenason?

28

A. Yes.

29

Q. Now, I notice, Mr. Stenason, that the

30







1  
2 switching, industrial switching to elevators, Manitoba  
3 Pool No. 3, minutes per car, 2.7; Stewart, 1.9;  
4 Thunder Bay, 3.2; Saskatchewan Pool No. 7, 1.3;  
5 Saskatchewan Pool No. 6, 3.0; U.G.G., 1.6; National  
6 Seed, 14 cars, 7.6; Lakehead, 4 cars, 7.2; Northwestern,  
7 37 cars, five minutes; Searle, 1.7; National, 2.2;  
8 Paterson, 3.1; Saskatchewan Pool, 5.2. That is  
9 page 3 of that exhibit. Now, that is the switching  
10 attributable to grain having a breakdown there of  
11 minutes per car. In other words, other industrial  
12 switching in Fort William: Great Lakes Paper, 6.2  
13 minutes; Montreal Street Industries, 18.1; Abitibi  
14 Paper, 4.5; Robin Hood Flour Dock, 5.0; Mission Oil  
15 Docks, 2.8; Fort William Coal Dock, 9.1; Mission Freight  
16 Shed, 6.5; Twin City Industries, 15 minutes.

17 Now, then, on the next page you show as high  
18 as Provincial Paper, 25.2; Thunder Bay Paper, 23  
19 minutes per car. My question is: From the C.N.R.  
20 Exhibit, if one were going to average the two and three  
21 and four minutes that are taken to switch the grain  
22 car, you then have 25 minutes per car, doesn't it  
23 result in penalizing grain?

24 A. I am afraid you are under a misapprehension.  
25 We followed identical treatment with Canadian National  
26 for all the switching, and I have the time per car  
27 for the elevators, and the only element applied against  
28 the grain for switching was the time required to move  
29 the grain from the classification yard to the elevator.  
30 I can read you the similar times for Fort William,





1  
2 if you like. Would you like them?

3 Q. If you would put in some of the  
4 representative ones, Mr. Stenason?

5 A. Sheds, 3.45 -- this is for flour --  
6 3.6 minutes; Ogilvie's, 2.5 minutes; Farm Elevators,  
7 2.6 minutes; Empire Elevators, 3.3 minutes, Stock Yard,  
8 14.0 minutes -- that was not applied against grain --  
9 Paterson Elevator, 2.2 minutes, Current Elevators, 1.9  
10 minutes.

11 Q. On page 2518, volume 18, re traffic and  
12 general:

13 "Traffic expenses are those incurred in securing  
14 traffic and pricing railway services. General  
15 expenses include items such as salaries of  
16 general officers and clerks, and pensions."

17 Now, Exhibit 68 shows a cost allocated for  
18 grain for traffic and general of \$4,079,910.00. Now,  
19 under the classifications of account, the items listed  
20 under Traffic are: Superintendence, Agencies, Advertising,  
21 Associations, Industrial and Immigration Bureaus, Insurance,  
22 Stationery and Other Expenses.

23 MR. SINCLAIR: Which accounts are those?

24 MR. MAURO: Accounts 351 to 359 inclusive,  
25 under Traffic.

26 Q. And then under account No. 451 to 462,  
27 it includes such items as: General Officers, Clerks  
28 and Attendants, Office Expenses, Law Expenses, Insurance,  
29 Pensions, Stationery, Other Expenses and Joint Facilities.

30 Would you tell me what work the railway expends







1  
2 in the securing of grain traffic in Canada?

3 A. Are you talking about the traffic expenses  
4 now?

5 Q. Yes.

6 A. There is solicitation of grain traffic.

7 Q. They actually seek it out, Mr. Stenason.  
8 They are looking for grain traffic?

9 A. Our Traffic Department spends time in con-  
10 nection with the movement of grain traffic.

11 Q. Actually soliciting the movement of the  
12 grain at statutory rates?

13 A. Soliciting traffic.

14 Q. I am interested in the grain traffic. Your  
15 Traffic Department actually goes out and tries to solicit  
16 increased tonnage at these very low figures?

17 A. Yes. Once maintenance expenses, and so  
18 forth, and the plant is undertaken to handle a certain  
19 volume, the traffic is solicited.

20 Q. What work does the C. P. R. do in pricing  
21 the service for carrying grain?

22 MR. SINCLAIR: I can't understand the question.

23 MR. MAURO: Q. I understand that is one of  
24 the items included under Traffic, pricing of service. I  
25 wondered if there was any work to your knowledge done by  
26 the C. P. R. in pricing grain services.

27 MR. SINCLAIR: Mr. Chairman, what we have been  
28 through here, Mr. Chairman, for the last number of months  
29 on this matter, if my friend needs to wonder if any work  
30 is done by traffic officers on pricing of grain, I am







1  
2 surprised. I thought that was one of the ~~facto~~rs we  
3 have been concerned with.

4 MR. MAURO: Q. Do you know what actual  
5 services -- we have heard a lot, Mr. Stenason, about the  
6 work that is done on this, and I thought you would assist  
7 the Commission in getting down to details on it. What  
8 are the services which are regularly performed by the  
9 Traffic Department?

10 THE CHAIRMAN: For grain?

11 MR. MAURO: Yes, attributable to grain.

12 THE WITNESS: Looking up tariffs, solicitation.

13 Q. Now, advertising, Mr. Stenason. As I  
14 understand the methods by which you came up with these  
15 figures, it was that you made an allocation between  
16 passenger and freight services, an arbitrary allocation  
17 as to the amount of total operating expenses that was  
18 attributable to passenger and to freight.

19 A. We undertook special studies to determine  
20 the passenger expenses and traffic general. Is that  
21 what you are referring to?

22 Q. No, I am going to ask you -- we will take  
23 it step by step. In coming up with this first step in  
24 trying to arrive at these figures that you have arrived  
25 at in statement 410, Exhibit 68, you had a starting point  
26 and you had total cost to the Canadian Pacific Railway,  
27 total operating expenses; is that correct?

28 A. Yes.

29 Q. And then you subtracted from that those  
30 costs which you concluded were attributable to passenger  
services?





1  
2 A. Well, there was one step prior to that  
3 in these figures.

4 Q. And that was for this traffic and general?

5 A. Yes.

6 Q. And then you had a figure left and you  
7 allocated a portion to passenger and a portion to  
8 freight?

9 A. Yes.

10 Q. And you then took the proportion that  
11 grain, all grain traffic was to the total freight ex-  
12 penses, the balance of the freight expenses, and you  
13 came up with this figure, this figure of 12.423 per  
14 cent.

15 A. No. You are thinking of the way in which  
16 the constant was applied to grain. We are discussing  
17 traffic and general, and the method used in traffic and  
18 general was as follows: First, the solely related  
19 passenger traffic and general expenses were removed;  
20 secondly, a ratio was developed which was the ratio  
21 of what we called the freight and constant proportion  
22 of traffic and general expenses to total freight variable  
23 and constant costs. That ratio was 17.207 per cent.  
24 Now --

25 Q. I have, unfortunately, to go slowly  
26 because this is new to me, and I am sure to some of the  
27 Commissioners. The figures that I obtained, that we  
28 have tried to work out, were \$34,492,380 over \$277,641,621  
29 times 100, which gives you 12.423 per cent. This is  
30 just the traffic and general, Mr. Stenason, not  
communications.







1  
2 MR. SINCLAIR: One of these work papers was  
3 requested and sent to your consultants, work paper 10.

4 THE WITNESS: Yes, that is correct, 12.423  
5 per cent.

6 Q. And that was \$34,492,380, being the  
7 traffic and general freight over the balance of the  
8 freight?

9 A. Yes.

10 Q. And you came out with 12.423 per cent?

11 A. Yes.

12 Q. And then you applied this 12 per cent to  
13 the amount chargeable to grain; is that correct?

14 A. This was applied to the variable costs  
15 of grain less the traffic and general, yes.

16 Q. And we come up with the figure of  
17 \$4,079,910?

18 A. Yes.

19 Q. Then the \$4,079,910 was taken as over  
20 \$34 million, which was the traffic and general freight  
21 amount; is that correct? If you take the \$4,079,000,  
22 Mr. Stenason, and put that over the \$34,492,000, which  
23 was the traffic and general freight times 100, you come  
24 up with 11.82 per cent, which was the amount that you  
25 charged grain with each of these accounts in traffic and  
26 general?

27 A. Yes.

28 Q. In other words, you took the total charged  
29 for grain per schedule 410?

30 A. Yes.

Q. Over the total general charged to freight?





1  
2 A. Yes.

3 Q. Times 100, and it came to 11.82 per cent.  
4 Then under these items of superintendence, agencies,  
5 etc., grain was established to bear 11.82 per cent of  
6 those items?

7 A. This is of the freight and constant  
8 portion only. Now, as far as the advertising is con-  
9 cerned, the bulk of this has been removed and is in the  
10 passenger expenses.

11 Q. Well, we have worked out --

12 MR. SINCLAIR: Mr. Chairman, the witness said  
13 that there was first a removal from the general accounts,  
14 the ones that were solely related passenger.

15 MR. MAURO: Q. We have worked out what we  
16 contend is the allocation made, and we are going to put  
17 the witness the amount we attribute to each of these  
18 accounts, and the witness can say if it is in error or  
19 not.

20 Under traffic account 351, superintendence,  
21 charge to grain, \$229,597.00; account 352, agencies,  
22 \$295,000.00; advertising, account 353, charge to grain,  
23 \$40,042.00; associations, the amount was \$25,919.00 --  
24 that is included in the cost of the carrier particip-  
25 ation of Carrier Association, Fast Freight Association,  
26 and so on. Then industrial and immigration, the charge  
27 to grain is \$44,142.00; insurance, \$928.00; stationery  
28 expenses, \$47,143.00; and other expenses, \$6,319.00.  
29 Under general, general officers, which is account 451,  
30 this includes the salaries, the pay of all general  
officers and not otherwise provided for, including salaries,





1  
2 fees and commission paid to general officers in lieu of  
3 salary, \$128,241.00; clerks and attendants, \$860,810.00  
4 -- clerks and attendants was account 452 -- office  
5 expenses, account 453, account 454, law expenses ,  
6 \$68,094.00. That is 454. It says:

7 "This account shall include the pay and the office  
8 and other expenses, when not provided for elsewhere,  
9 of officers and employees of the law department,  
10 the cost of suits, and the payment of special law  
11 fees."

12 Just on that, can you tell me whether under this  
13 the grain farmers are paying any of Mr. Sinclair's costs  
14 for what he is doing here?  
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MR. SINCLAIR: Mr. Chairman, I wish to object to any specific figures being brought on the record, because if they can do it for me they can do it for other people, and here representing the Canadian Pacific I am afraid that the low salaries being paid will result in these people receiving numerous offers, and the company will lose their services, and on that basis I make my objection to this type of question.

THE CHAIRMAN: Well, I think we can adjourn on that note.

---Luncheon adjournment.

(Page 11724 follows)





--- On resuming at 2.00 p.m.

THE CHAIRMAN: Order, please.

MR. MAURO: Q. Mr. Stenason, at the luncheon break we were discussing the items under the Traffic and General and the proportion that we had worked out you had assessed against the grain grower. We were on the item of law expense, and according to our calculation, in your cost study you allocated the sum of \$64,094 to grain traffic as their portion of the legal expenses of the Canadian Pacific Railway. Under insurance there was an item of \$232 -- this is classification of account 455; under pensions you allocated to grain \$1,979,940 -- this is item 457 of the classification of accounts and it includes the carrier's contribution in respect of past and current services of employees. Under 458, stationery, \$71,719, the proportion the grain should pay for stationery expenses, that, according to our calculation, totalled \$695,000. Under 460, other expenses, which we have totalled at \$1,377,000, you have allocated to passenger services -- again these are our calculations -- \$174,828, and to grain \$139,922. Then, joint facilities, account 461, \$5,007; making a total allocated to grain of \$4,079,265. I understand that this is what you contend is a proper allocation to the study traffic of the expenses listed for Traffic and General?

A. This is the allocation of Traffic and







1  
2 General expenses taken as a group. I would not  
3 consider it valid to break them down as you have done.

4 Q. I assume you had to break them down  
5 because you had these separate accounts. You keep  
6 accounts as set out in the classification of account:  
7 We will take one, for example, and assuming that our  
8 calculations are somewhere within the range, in the  
9 item 352, Agencies, we have ascertained a total expense  
10 of \$5,476,024, and we have calculated that you have  
11 charged to passenger services \$2,981,000, and to freight  
12 \$2,494,930. Of the freight portion you have charged  
13 to grain 11.828 per cent, totalling \$295,100. Now,  
14 the agency item, which is 352 of the classification of  
15 accounts. Do you have an account there for the  
16 Canadian Pacific Railways?

17 A. Yes.

18 Q. This includes the pay, office,  
19 travelling and other expenses of general, commercial  
20 city and district agents and others soliciting traffic,  
21 the employees of their offices, and travelling agents  
22 and solicitors located on or off the line of the  
23 carrier's road. City ticket and freight offices,  
24 separate from regular station ticket and freight  
25 offices, shall be treated as agencies for which the  
26 pay and the expenses of the employees therein and the  
27 expenses of such offices shall be charged to this  
28 account. Commissions for services pertaining to  
29 either freight or passenger business, except comm-  
30





1  
2 missions paid in lieu of salaries to carrier's agents  
3 located upon the carrier's own line shall be included -  
4 in this account: Bicycles, books for office use,  
5 furniture, heating and lighting, membership fees,  
6 periodicals and newspapers.

7 I notice in the list of your C.P.R. time-  
8 table at page 61 they list some of your agents starting  
9 off with Harry Arkle, European General Manager, and  
10 I notice a chap in Bangkok, Siam -- and I imagine the  
11 water and ice situation is a bigger item there, but  
12 I am interested in ascertaining, the gentleman in  
13 Bangkok, Siam -- that grain is being asked to carry  
14 11.828 per cent of the amount chargeable.

15 A. No, that is not correct. Grain is  
16 being asked to carry 11.82% of the total and it is not  
17 valid to break it down on an individual account basis.  
18 It means that grain may be carrying a greater share of,  
19 let us say, clerical expenses, and foreign freight  
20 traffic may be bearing the agency expenses.

21 Q. When you made up the figure for Traffic  
22 and General which you started off with, surely you went  
23 to your accounts; the only source of information which  
24 would bring you up to a total sum would be the accounts  
25 that the C.P.R. has under Traffic and General, and I  
26 assume that the accounts they maintain under Traffic  
27 and General are the accounts as stipulated in the  
28 classification of accounts?

29 A. Yes, that is correct.

30 Q And these accounts are the accounts I







1  
2 have mentioned -- 351 to 359 and 451 to 461 inclusive,  
3 and you went through them and came up with a total  
4 figure, and I don't care what the mental gymnastics  
5 of it are, but to be precise, the allocation of the  
6 total or any part of it was made up of these items  
7 that you allocated to Traffic and General for a proper  
8 allocation of total freight expenses?

9 A. Yes, total Traffic and General expenses  
10 were allocated to all types of freight and a ratio  
11 was applied to grain, and a similar ratio was available  
12 for application to other categories.

13 Q. The figure you started off with came  
14 from your accounts, and they are set up pursuant to  
15 the classification of accounts, and they are those  
16 figures I have read to you?

17 A. The total Traffic and General expenses  
18 are the figures which appear --

19 Q. A total is usually made up of parts,  
20 isn't it?

21 A. Yes.

22 Q. And the total will only be as valid as  
23 the parts? You can't put oranges into the machine  
24 and come out with apples?

25 A. No.

26 Q. Multiple regression doesn't even  
27 suggest that?

28 A. No.

29 Q. So you received a total, and the total was  
30 made up of various accounts and you apportioned part







1  
2 of the total?

3 A. That is correct -- no: We apportioned  
4 the total. We did not apportion parts of it in-  
5 dividually. We apportioned the total as a total.

6 Q. You suggested this cost study has  
7 introduced refinements which permit a more precise  
8 analysis: You are not suggesting for one moment that  
9 we should not -- or, it is not accurate to look at  
10 the parts in order to ascertain whether the total is  
11 a precise analysis?

12 A. It is not valid to apply a ratio which  
13 was developed overall to each component and charge each  
14 component against grain and say, "This is the amount  
15 of expense which should be charged to grain."

16 Q. You applied a total factor against the  
17 total amount?

18 A. Yes.

19 Q. And if the total amount is not a fair  
20 apportionment of costs, then the amount you are  
21 applying is not accurate or precise, and I am suggesting  
22 to you that in your apportionment, in using the approach  
23 you did use in taking each of these items and grouping  
24 them together and then selecting an arbitrary alloc-  
25 ation to passenger and then an arbitrary allocation  
26 to the grain, that you loaded grain with costs under  
27 Agencies, Superintendence and these other accounts  
28 that have no reflection at all upon the costs of the  
29 C.P.R. in handling it?

30 A. No, but we may have understated the





1  
2 expenses of clerks, for example, insofar as grain  
3 is concerned when you apply this ratio.

4 Q. Do you think you perhaps did under-  
5 state some?

6 A. We may have.

7 Q. Do you think it is just as likely you  
8 may have overstated some?

9 A. I would think the clerical expense  
10 applied on an overall ratio, as has been done here,  
11 would tend to understate the amount chargeable to grain  
12 because of the degree of clerical work involved in  
13 grain.

14 Q. I imagine the same probability of error  
15 on the side of understating exists on the side of  
16 overstating?

17 A. No, I would not say so.

18 Q. You think if you erred at all you erred  
19 on the side of understating?

20 A. On this particular account.

21 Q. On this particular account, and when  
22 you applied a factor of 11.82 per cent to each one  
23 of these items as the sum which makes up the total sum  
24 of \$4,000,000, you contend that that was not an unfair  
25 or an inaccurate allocation of the costs on grain  
26 because you took the total sum rather than the  
27 components?

28 A. I don't think it was an unfair alloc-  
29 ation.

30 Q. Thank you. Would you tell us what







1  
2 was the formula that you used in determining the  
3 portion allocatable to passenger and freight of these  
4 Traffic and General expenses?

5 A. This was set forth in two letters to  
6 Mr. Banks. They were largely special studies. The  
7 traffic expenses were allocated between passenger and  
8 freight on the basis of analysis of duties of traffic  
9 officers.

10 Q. In a letter to Mr. Banks of April the  
11 12th 1960 -- and I am reading from page 3 of that  
12 letter:

13 "The salaries and expenses of general  
14 officers and their staffs and all outside agencies,  
15 officers and staffs whose functions are related to  
16 both passenger and freight services are apportioned  
17 between the two services on a formula developed by  
18 the Vice-president (Traffic) on a basis of analysis  
19 of duty."

20 It would certainly be of assistance to  
21 us, and I am sure to the cost people retained by  
22 the Commission, if you would let us have that formula  
23 for the allocation of those expenses between passenger  
24 and freight?

25 A. We do not have the working papers here.

26 Q. But the formula could be made available?

27 A. Yes.

28 Q. At page 2518 of the transcript, re  
29 joint facility rents: "This includes property taxes  
30 and the net of rentals for facilities used with other





1  
2 railways."

3 Page 153 of the classification of accounts,  
4 and it is item 468 in the classification of accounts,  
5 "Other railway taxes: This account shall include  
6 accruals for taxes of all kinds (other than taxes on  
7 income) relating to railway property (including  
8 vessel equipment operated as part of the Canadian rail  
9 transportation sytem), operations, and privileges,  
10 whether based upon the valuation of the property,  
11 amount of stocks and bonds or other evidences of debt  
12 issued or outstanding; number of passengers carried,  
13 quantity of freight transported, length of line operated  
14 or owned, rolling stock operated or owned, or other  
15 basis; also taxes for issuing and recording mortgages  
16 and trust deeds and for issuing bonds or other evidences  
17 of long-term debt, and provincial sales taxes on  
18 materials purchased.

19 The account shall also include assessments  
20 made by Governmental authorities for public im-  
21 provements such as paving streets and highways, sewer  
22 systems..."

23 I was wondering if you could tell us --  
24 and I am sure you can't do it right away -- but make  
25 available what are these charges in western Canada  
26 that come within that item of the classification of  
27 accounts and which you included in your joint facility  
28 rents and taxes?  
29  
30





1  
2 A. Well, the majority of those items  
3 have already been made available to you. In the letter  
4 to Mr. Banks you were furnished with a copy of our  
5 schedule, our annual report to D.B.S. which sets forth  
6 the property taxes by province. This is the largest  
7 item in the account.

8 Q. This information that I have requested  
9 under that account of classification has been submitted?

10 A. So far as I know.

11 Q. And we could from that ascertain  
12 what those charges were in western Canada?

13 A. Yes, by province for property taxes.

14 Q. My consultant tells me he has no  
15 information as to joint facility rents?

16 A. We will make those available.

17 Q. What would have been the effect if  
18 you had charged grain on the basis of the companies  
19 joint facility rents paid in the prairie provinces  
20 in relation that grain is to the total traffic in  
21 the western provinces?

22 A. I would have charged a larger amount  
23 of grain.

24 Q. Just on that same matter, in the  
25 letter of March 21 to Mr. Banks, page 5 which is  
26 on these rents and taxes you suggested there that it  
27 was on the basis of a special study and expenses  
28 apportionment. We would appreciate it if you could  
29 make available those special studies which resulted in  
30







1  
2 the apportionment.

3 A. The special studies referred to here  
4 was the separation of rents and taxes between passenger  
5 and freight services and this was done on the basis  
6 of a facility and we can make that available.

7 Q. Please turn to page 2530 of volume 18.

8 MR. SINCLAIR: When we say we will make them  
9 available, these are work papers and what we do is  
10 show them to Mr. Mauro is that right?

11 MR. MAURO: It would not be much good to  
12 show them to me but the last question was the special  
13 studies.

14 MR. SINCLAIR: Those are part of the working  
15 papers.

16 THE CHAIRMAN: I understand they will be made  
17 available to Mr. Mauro or his consultants.

18 MR. SINCLAIR: We will have them here and  
19 fix a day in time and he can come and look at them.

20 THE CHAIRMAN: We do not want to file them  
21 with the Commission?

22 MR. SINCLAIR: That is what I mean.

23 MR. MAURO: Q. At page 2530 part way  
24 down the page in reply to a question and the question  
25 was:

26 "MR. SINCLAIR: Q. If it would assist  
27 Mr. Frawley and he wants them we will do it over again:  
28 would you define direct costing?

29 A. Where it is known that any category of  
30





1  
2 expense varies completely with the study traffic, this  
3 expense can be secured by the direct method if the  
4 accounts segregate the expense. For example, fuel and  
5 crew wages are directly traceable to the operation of  
6 trains on which the study traffic moved."

7 MR. SINCLAIR: Read it all, read it to the  
8 end of the answer.

9 MR. MAURO: Very well:

10 "These items of expense vary completely  
11 with the study traffic. The direct method is also  
12 used where the expense is incurred solely because of  
13 movement of the study traffic and is segregated in the  
14 accounts. This is the case with loss and damage -  
15 grain and also grain doors."

16 The point I am particularly interested in is  
17 the fuel and crew wages where you say they are directly  
18 traceable to the derived trains.

19 A. That is right.

20 Q. And if your method of establishing the  
21 number of trains is incorrect then this direct  
22 allocation of fuel and crew wages will also be incorrect?

23 A. I wish you would explain what you mean  
24 by saying if the method of deriving the number of trains  
25 is incorrect.

26 Q. We may be bringing up a number of  
27 alternative methods that one could use in assessing the  
28 number of trains. You operated a method of gross ton  
29 miles?  
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A. Yes, we developed by train run the volume of grain in relation to the volume of all freight traffic moving and apportioned the trains or the train miles on the basis of the gross ton miles for through trains.

Q. If you had a run from Carmen to Winnipeg running fifty-two times a year and if there was only 1,000 cars of grain going from Carmen to Winnipeg and you could move the grain trains in ten train loads of 100 cars each you would have assessed against the grain ten trains for that Carmen run. You would have taken it as a percentage of the total number of trains?

A. Yes, that is correct.

Q. So I come back to my statement that if your basis of deriving trains is incorrect then your base of direct allocation of fuel and crew wages is similarly incorrect?

A. If that is the case.

Q. Page 2552, the answer there appearing:

"A. As has been stated, grain and grain products moving at statutory and related rates constitutes over 40 per cent of the total freight traffic moved by Canadian Pacific in western Canada. Accordingly much of the branch line system operated by Canadian Pacific in western Canada was built to handle grain and would not have been built were it not for the handling of grain. The cost of those portions of the railway plant which would not have been built were it not for the handling of grain, less





1  
2 the net revenue contribution from other than grain  
3 traffic originated or terminated on such facilities, is  
4 therefore a variable cost chargeable to the movement of  
5 grain and grain products."

6 Is this a statistical conclusion, this  
7 conclusion that the lines would not have been built  
8 was it not for the handling of grain, is this a statis-  
9 tical conclusion that you have arrived at, Mr. Stenason,  
10 or is this a personal opinion of yours?

11 A. There are a number of factors behind  
12 this. The majority of Canadian Pacific branch lines  
13 in western Canada were built for the purpose of opening  
14 up the prairies and the major traffic which was antici-  
15 pated at that time and presently was grain.

16 Q. I will read you a statement from the  
17 Duff Commission on this matter of branch lines and I would  
18 ask you as a statistician for your comments on it.  
19 This is at page 21 of the Duff Commission report para-  
20 graph 55 to 59:

21 "55. Canadian railway development during  
22 the past decade has consisted almost entirely of the  
23 construction of branch lines and both companies have  
24 followed practically the same policy. Your commissioners  
25 have questioned the representatives of both lines as  
26 to justification for the construction or acquisition  
27 of this additional mileage. The explanations given  
28 are not such as to convince us that this policy has been  
29 sound or wise.  
30







1  
2 56. On behalf of the Canadian Pacific it was  
3 stated that the company had been forced to anticipate  
4 the building of branch lines, the construction of which  
5 might have been deferred without injury to the public,  
6 and that protective lines had had to be projected under  
7 a threat of invasion by the Canadian National.

8 57. The Canadian National stated that to re-  
9 frain from branch line construction would result in the  
10 system being deprived of any opportunity for reasonable  
11 and proper development. Strategic territories,  
12 contiguous to their main lines, would be entered by  
13 their rival and, while admitting that they entered upon  
14 the construction of lines not immediately required,  
15 they defended this policy on the ground that to open up  
16 new territory in anticipation of settlement and immi-  
17 gration, and to maintain the company's relative position  
18 with regard to the rival transport enterprise, was in  
19 the long run justified.

20 58. To sum up, it is clear that there was  
21 intense rivalry between the two systems in new territory,  
22 particularly in the provinces of Saskatchewan and  
23 Alberta. The construction program of one company was  
24 responded to by an equal or greater program of construct-  
25 ion of the other. The development of this territory  
26 did not meet expectations, and the railways now find  
27 themselves with additional traffic mileage and an in-  
28 creased burden of capital charge.

29 59. It would be fruitless at this stage to  
30







1  
2 apportion the blame for the competition in branch  
3 line construction, but there is no doubt as to the  
4 disastrous effects of this competition, and it is  
5 imperative that conditions be imposed that will make  
6 impossible a repetition of the rivalry in the extension  
7 of railway mileage that marked the period from 1923 to  
8 1931."

9 Now, Mr. Stenason, I put it to you as a  
10 statistician, with reference to your statement on page  
11 2552 that these branch lines would not have been built  
12 were it not for the handling of grain is an assumption,  
13 a personal assumption and not a statistical conclusion  
14 and it is not born out by the historical development  
15 of the branch line system in Canada.

16 A. Are you talking about all branch lines?

17 Q. I am talking about the --

18 A. The branch lines that were built between  
19 1923 and 1931?

20 Q. I am talking about branch lines you  
21 have mentioned here with grains and grain products  
22 moving as statutory related rates constitutes 40%  
23 of the freight traffic moved by the Canadian Pacific  
24 in western Canada and the branch lines referred  
25 to here were built over the period from 1897 right  
26 up to about 1931. A great many of these were built  
27 around 1909 and 1910 and some were built after 1923.

28 I can assure you that perhaps in later  
29 cross-examination by counsel you will get into a historical  
30





1  
2 survey of which branch lines are solely related and  
3 when they were constructed. However, I am suggesting  
4 to you, Mr. Stenason, that the big problem to branch  
5 lines, the problem that the branch lines have created  
6 for the Canadian Pacific is the same problem that the  
7 Duff Commission was considering, it was an over expan-  
8 sion brought about not by any economic demand that they  
9 be built to handle grain or they would not have been  
10 built. They were not for the handling of grain but  
11 simply to meet competition from another transportation  
12 agency.

13 A. Well, again I say that does not apply  
14 to all branch lines.

15 Q. Now, were these lines built on the  
16 decision of management or were they compelled to build  
17 them?

18 MR. SINCLAIR: That question is not clear  
19 to me.

20 MR. MAURO: All right, we will make it clear.  
21 From your analysis of the situation were you able to  
22 ascertain whether the C.P.R. say, and now we will keep  
23 it down to the solely related branch lines and narrow  
24 it right down, these lines which you claim to be solely  
25 related, were there any of these lines that they were  
26 compelled to build by statute, was this part of any  
27 statutory obligation or was it a decision of management  
28 to enter into this branch line construction.

29 MR. SINCLAIR: Well, Mr. Chairman, I think  
30







1  
2 "compelled by statute" requires me to rise because as  
3 my friends know that with respect to certain charter  
4 lines there is no statutory compulsion but the decision  
5 is made in the light of prudence at the time and there  
6 is a great deal of law on this matter.

7 THE CHAIRMAN: I take it what you are saying,  
8 Mr. Sinclair, is that the branch line program was in  
9 the voluntary judgment of the company.

10 MR. SINCLAIR: It was in the business judg-  
11 ment of the company.

12 THE CHAIRMAN: The business judgment of the  
13 company.

14 MR. MAURO: That is exactly what I wanted,  
15 thank you.

16 MR. SINCLAIR: With one or two exceptions  
17 we set out in the chart.  
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23 (Page 11745 follows)  
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Q. You agree with the statement that your counsel has made, Mr. Stenason?

A. Yes.

Q. As a statistician, do you agree with this decision, that this was a business decision?

MR. SINCLAIR: You can't apply statistics to law; it is much more human.

THE WITNESS: I agree with it.

MR. MAURO: Q. These were decisions of management?

A. Yes, I would agree.

Q. And the companies in many of the cases received various other compensations for the building of these branch lines; there are the various charters setting them out giving grants of land. You are familiar with that in branch line construction?

A. Yes, in some cases.

Q. And management decision has continued to be exercised in the maintenance of these branch lines?

A. Yes, the branch lines are still being maintained.

Q. I wonder if you could tell me what is the difference between the exercise of management discretion in maintaining these branch line deficit operations and maintaining passenger deficit operations.

MR. SINCLAIR: Which branch line deficits?

MR. MAURO: Q. You have studied this, Mr. Stenason. Are you aware of any deficit, Mr. Stenason, in the operation of branch lines in western Canada?

A. No, I am not.





1  
2 Q. Thank you very much.

3 A. I didn't study the deficits on branch  
4 lines. I don't think it would be appropriate even to  
5 make an estimate as to what the deficit would be on  
6 branch lines, because the chief traffic moving over  
7 branch lines is on statutory and related rates, and it  
8 is not at a just and reasonable rate.

9 Q. This is on the basis of net revenues in  
10 the branch lines. You have determined that branch  
11 lines are solely related?

12 A. Yes.

13 Q. And these lines are not bearing the  
14 variable cost of providing the service?

15 A. The test applied here was to examine the  
16 cost of grain traffic and to determine whether the net  
17 from the non-grain traffic was sufficient to cover the  
18 size related maintenance costs. This says nothing  
19 about over-all deficit of branch lines. On these solely  
20 related branch lines the net revenue did not meet the  
21 costs.

22 Q. The vast percentage of traffic was grain?

23 A. Yes.

24 Q. And these lines are maintained by decision  
25 of management?

26 A. They are maintained to handle grain.

27 Q. Has management decided to maintain the  
28 lines?

29 A. Management decided to maintain the lines  
30 in order to move the traffic that originates.

Q. You tell me that the grain, be it at a







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reasonable or unreasonable level, is not returning the costs of the line.

A. There are deficits arising from grain, yes.

Q. Is there any deficit arising from passenger services?

A. There is a deficit in passenger services, yes.

Q. And we have been told that the distinction between a deficit arising from passenger services and the deficits associated with the grain problem is that the rates on grain have been imposed by statute, but the management can deal with the passenger deficits; is that correct?

A. That is correct.

Q. Can't management deal with the abandonment of branch lines?

MR. SINCLAIR: This seems to me to be into the question of the obligations under the Railway Act in regard to a facility once constructed.

THE CHAIRMAN: Well, of course, the matter of branch lines has been urged very strenuously.

May I ask Mr. Stenason this question? If the rates on grain were raised to the point that the company wants now, and if that rate were paid, would all branch lines in western Canada be paying?

THE WITNESS: Yes, all branch lines but about three or four, solely related lines.

MR. MAURO: Q. In determining freight car maintenance, you utilized gross ton miles as a factor





1  
2 instead of car miles?

3 A. No.

4 Q. What did you use for freight car main-  
5 tenance?

6 A. Car miles. Now, are you talking about the  
7 development of the unit cost of freight car maintenance?

8 Q. Yes.

9 A. As I explained this morning, the expenses  
10 were treated in the following manner, that this average  
11 of total freight car repair expenses was removed and  
12 laid against inspection; the unit cost of inspection was  
13 developed on the basis of car miles on the Canadian  
14 Pacific system, freight car miles. That unit cost  
15 was multiplied by the freight car miles of the study  
16 traffic. In so far as the remainder of the freight car  
17 expenses was concerned, 70 per cent was laid against  
18 the car miles of Canadian Pacific cars, both on Canadian  
19 Pacific and foreign lines, to the unit cost, and it  
20 was then multiplied by the car miles of the study  
21 traffic, and there was a car repair inspection.

22 Q. So you advise that the freight car main-  
23 tenance was based on freight car miles?

24 A. Yes, that is correct. That has always  
25 been the case.

26 Q. Page 3521: You are discussing generally  
27 here, Mr. Stenason, the regression analysis, the meaning  
28 of it, and I wonder if you could define what is meant  
29 by the statistical significance of a regression coefficient?

30 A. What is meant by the statistical significance of a regression coefficient is the extent to







1  
2 which the standard error of the coefficient is distributed  
3 about the value found for the coefficient, and this is  
4 known as the T test. A high-value T indicates a highly  
5 significant coefficient, and a low value T a coefficient  
6 with limited significance.

7 Q. Did you test the significance of the  
8 coefficient in your study?

9 A. Yes.

10 Q. You agree that if the probability  
11 exceeds five per cent the coefficient was drawn from a  
12 population with a zero reading?

13 MR. SINCLAIR: I don't understand the question.

14 MR. MAURO: Q. Mr. Stenason, I understand  
15 that it is generally accepted by statisticians where the  
16 probability exceeds five per cent, in this factor of  
17 T value?

18 A. Well, let's go back and describe what we  
19 mean by five per cent. The theory behind a T test is  
20 that if an experiment is repeated an infinite number of  
21 times the value of the coefficient will be distributed,  
22 and that actually, according to the tables, if the  
23 experiment is repeated 100 times, then 95 of these 100  
24 times will find the value of the coefficient within the  
25 mean accepted value plus or minus approximately 2.06,  
26 plus the standard error. The 2.06 is the T test.

27 Q. If it is above 5 per cent, what would be  
28 your conclusion?

29 A. Are you talking now about 5 per cent?  
30 That is, if the experiment is repeated a great many  
times and the coefficient is outside the range of 95





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per cent?

Q. Yes.

A. Well, using it in that sense, I would say that is a highly significant coefficient.

Q. If it is above five per cent?

A. Oh, I see, you are working the other way, I think 10 is a better cutoff point.

Q. I am reading from Cruxton & Cowden's Practical Business Statistics, and if P is greater than 5 per cent, the difference is not significant.

A. Cruxton & Cowden is quite an elementary book. The probable value was set by the analysts, depending on the experiment and depending on the factors which are in the study.

Q. Would you tell this Commission what level you feel starts to determine the significance of the coefficient factor: Is it above five per cent?

A. Well, it is hard to specify a particular level. I would certainly be unhappy with anything -- you see, the trouble here is that you keep working with the five per cent; I am used to working with the 95 per cent. I would be very leery of anything less than 90, which is greater than 10.

Q. Have you, in your post-graduate studies, Mr. Stenason, and in your work in this field, found that 10 per cent has been generally accepted by statisticians?

A. It depends on the problem.

Q. And if you found something with a coefficient that was statistically insignificant, it would point up that the grouping wasn't large enough?





1  
2 was spent in connection with grain. That provided the  
3 same estimate of station expenses which was provided  
4 by this equation. That is what I meant earlier when  
5 I said -- I don't know if I said this, but I will say  
6 it now-- that you can't approach regression analyses  
7 blindly, and your hypotheses have to be framed in terms  
8 of specifics and also in terms of careful analysis of the  
category expense under consideration.

9 Q. You would accept, though, a regression  
10 or coefficient that resulted in a lower variation than  
11 the 10 per cent? If you were able to reduce that and  
12 make it at the 5 per cent level, would you accept that  
T value?

13 A. At less than that?

14 Q. Yes.

15 A. Well, I would think it would require very  
16 special circumstances to go below 10 per cent.

17 Q. This really means, when you chose ten  
18 per cent as being a significant level, in your judgment,  
19 it was significant in this particular case?

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22 (Page 11755 follows)  
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2 A. Well, just to get this in perspective,  
3 I find in reviewing these T tests that they are all  
4 99, which is one per cent, with the exception of this  
5 particular station coefficient which is at 91, and one  
6 other which is at about 93.

7 Q. By the use of your equation you have  
8 added to the cost of grain the sum of \$1,037,764?

9 A. Yes -- this is on station expenses?

10 Q. Yes.

11 A. There are three accounts there -- 372/3  
12 and 6.

13 Q. If you turn to page 2513 ---

14 MR. SINCLAIR: Do I take it the witness' answer  
15 was "Yes" or "No", or whether the question was unanswered?  
16 You asked him, did his regression equation result in  
17 station expenses being charged to grain at a certain  
18 figure, and I didn't hear his answer.

19 MR. MAURO: Q. I only used the accounts in  
20 the exhibit. This method you utilized resulted in the  
21 cost we see in the cost study?

22 A. For the three accounts -- despatching and  
23 station expenses.

24 Q. Page 2513 of the transcript:

25 "Q. How was the unit variable cost developed?

26 A. The operating expenses of Canadian railways  
27 are accounted for under the Uniform Classification  
28 of Accounts prescribed by the Board of Transport  
29 Commissioners. Each account may represent the  
30 expense of a number of different services. All  
expenses incurred in the operation of stations,





1  
2 "for example, are accounted for in accounts 373 and  
3 376, Station Employees and Expenses; such expenses  
4 are incurred in the handling of less than  
5 carload, and carload freight traffic as well as  
6 passenger traffic."

7 Then, if you turn to page 2531, you are  
8 discussing the regression analysis, and half way down  
9 that paragraph:

10 "Whether simple or multiple regression is used  
11 depends on the content of the expense item as  
12 well as the statistical relationship appertaining.  
13 For example, simple regression analysis was used  
14 for yard expense because the quantitative factor  
15 influencing variable yard expense is yard engine  
16 miles. On the other hand, three different  
17 transportation services, passenger, less than  
18 carload freight and carload freight are the factors  
19 influencing variable station expenses."

20 I wondered if you could tell me why freight  
21 car miles are included in your study in reference to  
22 this item of expense?

23 A. Freight car miles?

24 Q. Yes, I understand that would form part of  
25 it.

26 A. Not on 372/3 and 6.

27 Q. Are not freight car loadings ---

28 A. Oh, yes; these are not freight car  
29 miles.

30 Q. How did you arrive at the car loadings?

A. From the basic records.







1  
2 Q. You contend that the station expenses are  
3 variable with car loadings?

4 A. Yes.

5 Q. Is this the position taken by the  
6 Canadian National Railways? You have seen their study?

7 A. That station expenses ---?

8 Q. Were variable?

9 A. Yes, I believe they did.

10 MR. SINCLAIR: Mr. Bandeen is checking it.  
11 Mr. Stenason is, of course, responsible for the Canadian  
12 Pacific study, and Mr. Bandeen for the Canadian National.

13 MR. STENASON: The answer is "Yes".

14 MR. MAURO: Q. And was there a similar  
15 equation -- a similar coefficient applied?

16 A. I believe it was a similar equation.  
17 I don't have it before me.

18 MR. BANDEEN: They were treated slightly  
19 different, Mr. Mauro, and we didn't include despatching  
20 with station employees and expenses. So, we only  
21 treated the two accounts, 373 and 6, and we treated 372  
22 separately in another grouping of accounts. So, our  
23 equations were not exactly the same as the C. P. R.

24 MR. MAURO: Q. How does this compare with  
25 your work in the United States in the use of multiple  
26 regression there on the aeronautical research study?

27 A. Do you have the study before you?

28 Q. No, I have the book. I don't have the  
29 actual study. At page 324 there is the statement,  
30





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2  
3 "In preliminary testing, tons of LCL  
4 freight originated proved to have  
5 greater significance than gross ton  
6 miles, freight; this reflects the  
7 greater use made of such facilities  
8 for LCL freight."  
9  
10  
11  
12

13 I think it is on page 4 of the actual study.

14 A. I have it.

15 Q. I wondered if your work on the Canadian  
16 Pacific grain cost study reflected the same factors that  
17 the rail variability of station expenses is for  
18 l.c.l. and passenger services and not for carload traffic?

19 A. You are reading from Maintenance of  
20 Station and Office Buildings, not station expenses, in  
21 this book. Are you on page 324?

22 Q. Yes.

23 A. That is quite a different account.

24 MR. SINCLAIR: The book is "The Economics  
25 of Competition in Transportation Industries" by  
26 Myer, Peck, Stenason, and Zwick.

27 MR. MAURO: Q. I will get the exact quotation.  
28 My question remains, did you find that carload freight  
29 was an important determinant of station expenses in this  
30 grain study?





1  
2 A. Yes.

3 Q. And that the station expenses varied  
4 directly with the amount of carload freight going through  
5 the station?

6 A. Yes.

7 Q. I was noticing that in applications for  
8 removal of the station agent --- and I have here copies  
9 of applications by the Canadian Pacific, one here dated  
10 March 16:

11 "I hereby apply to the Board on behalf of Canadian  
12 Pacific for an order authorizing the removal of  
13 the agent at Caradoc. The revenue of the earnings  
14 for other than carload traffic at this point makes  
15 it uneconomic to keep it in operation."

16 MR. SINCLAIR: This signed by a lawyer?

17 MR. MAURO: A fairly good one -- K. D. M. Spence.

18 MR. SINCLAIR: A very good one.

19 THE CHAIRMAN: Well known.

20 MR. SINCLAIR: Well and favourably known.

21 MR. MAURO: Q. From my examination of a  
22 number of these applications, it appears that when the  
23 C. P. R. applies to abandon or to have a station agent  
24 removed, they do not put in any credit for carload  
25 traffic, and I assume many of these matters come before  
26 you, and I wondered whether this does not support the  
27 fact that in the view of the Canadian Pacific Railway  
28 station expenses are not determined by carload traffic?

29 MR. SINCLAIR: I presume my friend knows,  
30 Mr. Chairman -- I don't know if he does or not-- that  
the Board has delineated what they require, and only







1  
2 what they require, in meeting these applications, and  
3 they have indicated to the law departments of the various  
4 railways what information they want put in the application.

5 THE CHAIRMAN: Well, that is your explanation.

6 MR. MAURO: I would say, and I may as well  
7 put in on the record that, according to circular No. 281  
8 regarding applications made by railway companies for  
9 permission to remove station agents, caretaker-agents  
or caretakers, it says,

10 "The application to be submitted in duplicate and  
11 supported by a statement showing particulars of  
12 the earnings by months for two complete years  
13 immediately prior to the application. These  
14 earnings to be segregated as follows:

15 2. Freight revenue: Statement shall show  
16 the number of l.c.l. consignments received and  
17 forwarded in addition to the revenue in each case;  
18 carload shipments to be tabulated in the same  
manner."

19 So that the Commission requires it, but the  
20 Canadian Pacific Railway, in setting up their accounts  
----

21 THE CHAIRMAN: What you have read from is a  
22 directive of the Board?

23 MR. MAURO: Yes.

24 MR. STENASON: I found the proper reference  
25 in this book now, and we did use carloads of carload  
26 traffic originated. The title of the book is "The  
27 Economics of Competition in Transportation Industries",  
28 and it is at page 339. This is in terms of tons of  
29  
30





1  
2 carload freight originated.

3 MR. MAURO: Q. In your study for the C. P. R.,  
4 which did you find the most important factor in station  
5 expenses?

6 A. The most important factor in station  
7 expenses?

8 Q. Yes.

9 A. The biggest factor in station expenses  
10 is l.c.l. This is because of shed work --

11 Q. What about passenger services?

12 A. Well, I don't have the amount worked out  
13 here that is applicable to passenger freight and l.c.l.  
14 separately. I can do that if you want it.

15 Q. In your United States study, passenger  
16 was, I take it, one of the largest and most important  
17 factors?

18 A. In station expenses?

19 Q. Yes.

20 A. It was an important factor, but I do not  
21 have here the total amount of station expense money which  
22 was allocated in the United States study to carload,  
23 l.c.l. and passenger. We have to have the mean value  
24 of the output units to do that.

25 Q. But it is still your position that  
26 carload freight traffic is still a variable of station  
27 expenses?

28 A. Yes.

29 Q. And even though in your applications for  
30 removal of station agents, you do not credit the station  
with any revenue from carload traffic?







1  
2 A. I don't intend to speak to the applica-  
3 tions because it would appear they follow a certain  
4 prescribed form.

5 MR.SINCLAIR: We will answer whatever the  
6 Board wants us to answer on that. We will take the  
7 responsibility for letters we send out.

8 ---A short recess.  
9  
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15 (Page 11765 follows)  
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2 THE CHAIRMAN: Order, please.

3 MR. MAURO: Q. Mr. Stenason, just to  
4 complete that matter of constant expenses, I under-  
5 stand that the T value that you obtained were passenger  
6 car miles 1.63 --

7 A. Just a minute, Mr. Mauro -- yes.

8 Q. And L.C.L. 3.97?

9 A. Yes.

10 Q. And carloads 1.53?

11 A. Yes.

12 Q. What made you choose 1.53 as opposed to  
13 either 1.63 or 3.97?

14 A. Well, these were all introduced into the  
15 equation, they are still in the equation. We got  
16 three separate estimates, this was not a case of  
17 accepting one and rejecting another.

18 Q. And there is no preponderance of either  
19 of those three in your equation?

20 A. No, in a regression equation the basic  
21 input data goes in and the cost goes out. Now, I  
22 can work up and indicate to you how much of the total  
23 money is total expenses as distributed between passenger,  
24 L.C.L. and carload but it was not a case of accepting  
25 one co-efficient and rejecting another; all three  
26 were accepted.

27 Q Can you tell me whether statistical  
28 significance increases with an increase in the T value?

29 A. Yes, it does.

30 Q. Well, is not the statistical significance





1  
2 of the L.C.L. traffic of 3.97 more significant than the  
3 carload traffic of 1.53?

4 A. No, you really cannot argue that from  
5 a T test. You can say the T value is higher, the  
6 statistical significance is greater but --

7 Q. You do not say that?

8 A. I say the statistical significance is  
9 greater but you cannot say that percentage is more  
10 important.

11 Q. Page 2444, Volume 17 starting at the  
12 bottom of page 2443:

13 "Q. Now, has Canadian Pacific had experience  
14 in costing railway operations?

15 A. Yes. Costing is not new to Canadian  
16 Pacific. For many years Canadian Pacific  
17 has used cost analysis as part of business  
18 management. Many of these analyses have  
19 been used as an aid in the making of just  
20 and reasonable rates by traffic officers."

21 Have you made previous estimates  
22 or has the C.P.R. on grain variable and overhead costs?

23 A. I have not made previous estimates --  
24 you mean of grain variable cost?

25 Q. The cost of moving grain at statutory  
26 rates?

27 A. I have not made previous estimates.

28 Q. Has the cost and research department of  
29 Canadian Pacific?

30 A. There was one made in 1949, as you know,







1  
2 which was published.

3 MR. SINCLAIR: Which was objected to and  
4 not allowed to be filed or used in view of certain  
5 counsel taking strenuous objection to it being intro-  
6 duced.

7 THE CHAIRMAN: That is a matter of record.

8 MR. MAURO: Q. Is that the only one?  
9 Is that the only other one?

10 A. Other studies could have been done.

11 Q. You are not familiar with them if there  
12 are any others?

13 A. Well, other studies have been done.

14 Q. Have you looked at those other studies?

15 A. Not carefully.

16 Q. Do you know whether those other studies  
17 used solely related concepts?

18 A. Well, the study done in 1949 was on  
19 a -- it was a different treatment of cost, it was  
20 not really a variable cost study as such and it is  
21 hard to compare one with the other because the con-  
22 cepts were different.

23 Q. So that the 1949 study since it did  
24 not use the variable cost approach would not have  
25 included this solely related branch line concept?

26 A. It would have included them overall  
27 in the constant.

28 Q. It would have included them?

29 A. Yes, in the constant.  
30





1 Q. In the constant?

2 A. Well, in the total figure, one figure  
3 was arrived at.

4 Q. At page 2445:

5 "Q. Would you go on? Had the extent of  
6 Canadian Pacific operations any effect in  
7 the work you were doing?

8 A. Yes. The fact that Canadian Pacific  
9 is a railway which operates across Canada  
10 in widely different geographical areas with  
11 different operating and investment character-  
12 istics makes it possible to obtain a cross-  
13 section of railway costs under uniform  
14 maintenance practices without the difficulties  
15 which result when analyses are made in-  
16 volving a number of different railways."

17 My question, Mr. Stenason, do your  
18 regressions reflect the cost of output and size  
19 variables of cost or simply the influence of geography  
20 and cost?

21 A. Cost of size and output and cost.

22 Q. Page 2558?

23 A. Perhaps I should just go on and explain  
24 what was meant here. This was the third statistical  
25 cost study that I have done, the previous two were in  
26 the United States and had to do with cross sections  
27 of the United States railways and here you could have  
28 railways with a similar characteristic included in a  
29 regression equation and you will find one railway with  
30







1  
2 a very relatively high level of maintenance and another  
3 with a rather low level of maintenance and that is  
4 removed through working with the single railway.

5 Q. At 2558 discussing this matter of the  
6 branch line, the solely related branch lines, page  
7 2559 of Volume 18 Mr. Sinclair says:

8 "MR. SINCLAIR: Q. Deal with the first one.

9 A. Three tests were applied to each branch  
10 line. The first was an economic test.  
11 The non-grain revenues in total were com-  
12 pared with the incremental cost of the non-  
13 grain traffic on both the branch lines in  
14 question and the main line as well as with  
15 branch line maintenance expenses associated  
16 with size of plant. The branch line  
17 expenses associated with size where the  
18 miles of track co-efficient which were  
19 developed in a regression analysis and are  
20 set forth in Statement 404."

21 I wonder if the Canadian Pacific  
22 Railways estimated if your reduceable minimum portion of  
23 road maintenance per mile of track is reduced below  
24 this, would not a number of these branch lines become  
25 economically feasible to operate without grain and be  
26 removed from the 332 miles of solely related track?

27 A. As expense here the solely related  
28 lines were tested on three bases and that is a very  
29 difficult question to answer. The first was an  
30 economic test, second was an operating test and the





1  
2 third was a proportion of the grain traffic to the  
3 total traffic on the line.

4 Q. Now, the point is that you have set  
5 up -- what was the status of the economic test as  
6 opposed to these other tests?

7 A. The three worked in conjunction.

8 Q. All right, what final touchstone did  
9 you use, the economic test finding out whether the  
10 branch line was economically sound?

11 A. No, that was not the test. The  
12 economic test was where the non-grain traffic on the  
13 branch line, the non-grain net revenue arising from  
14 non-grain traffic on the branch line was sufficient to  
15 cover the size related costs of the branch line.  
16 That says nothing whatsoever about the branch line  
17 being economic or non-economic.

18 Q. If the non-grain traffic came up to  
19 what you term to be the proper proportion of revenue  
20 as compared with the size related cost of that branch  
21 line it would not be a solely related branch line,  
22 is that correct?

23 A. That would have to be looked at in  
24 conjunction with the other tests.

25 Q Assuming you had a branch line where  
26 the non-grain traffic did make its revenue contribution  
27 that was up to the proper level of the size related  
28 cost of this traffic on the branch line, would that  
29 be classified as a solely related branch line?  
30





1  
2 A. Again the three tests have to be taken  
3 together. It certainly is an important factor in  
4 the test.

5 Q. Would you have included as a solely  
6 related branch line a line where the non-grain traffic  
7 did meet its proper share of cost?

8 A. There are no such branch lines in-  
9 cluded.

10 Q. The really important test was in fact,  
11 the economic test?

12 A. I would not say that. An equally  
13 important test was the percentage of grain to total  
14 traffic.

15 Q. But if grain made its proper costs you  
16 would not have been concerned with it, if it had paid  
17 its total cost according to its size the related cost  
18 to the branch line --

19 A. What was that?

20 Q. If the grain itself was making the  
21 line economic by returning a net revenue contribution  
22 sufficient to meet the size related cost of the branch  
23 line, there would be no problem?

24 A. Oh, there certainly would. As I  
25 have said repeatedly, this is not based on grain traffic,  
26 it is based on non-grain traffic.

27 Q. And if the non-grain revenue does not  
28 come up to this level of meeting its proportion of  
29 the size related cost in that branch line it falls  
30 into the solely related category?







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A. Yes, that is correct.

Q. So this test essentially compared net non-grain revenue with size related cost on each separate branch line?

A. Yes.

Q. And where the former, the non-grain net revenue exceeded the size related cost line was excluded?

A. Yes.

Q. And where the former was less than the latter, in other words, where the non-grain net revenue was less than size related cost a line would be designated as solely related?

A. Not necessarily. A great many of these lines were eliminated because of operating considerations.

Q. And on these lines so designated 100 per cent of the cost would become the variable cost?

A. No, the size related cost less contribution of the net revenue traffic.

Q. The net revenue contribution of the traffic?

A. Yes.

Q. Would be deducted?

A. Yes.

Q. And if the net revenue from the non-grain traffic, if you were carrying non-grain traffic at an amount below the full distributed cost of that traffic you would be further penalizing the grain





1  
2 traffic if you were carrying a commodity over the  
3 branch line at a rate that was less than the sole  
4 cost of carrying that commodity you add up the total  
5 cost of that operation of that branch line, deduct  
6 the net revenues from non-grain traffic and add all  
7 the additional costs on to the grain traffic; is that  
8 correct?

9 A. Well, the more likely would be or the  
10 better point to make would be this ---

11  
12 MR. SINCLAIR: Do not help him.

13 A. That the expense to which the revenues  
14 on the non-grain traffic were well in excess of the  
15 variable cost of that non-grain traffic that that has  
16 a tendency of reducing the deficit or the amount  
17 charged against grain.

18 MR. MAURO: Q. If revenues received from  
19 the non-grain traffic were more than variable cost  
20 of providing that traffic?

21 A. Yes.

22 Q. And treated the non-grain traffic as  
23 incremental traffic?

24 A Yes.

25 Q. So they would not return a full dis-  
26 tributed cost, you were getting the fully distributed  
27 cost on the non-grain, you were estimating those  
28 values?

29 A. It is based on variable costs.  
30







1  
2 Q. So to the extent that the non-grain  
3 revenue do or do not meet the total cost attributable  
4 to non-grain revenues -- to non-grain traffic, grain  
5 is assessed those costs?

6 A. Well, the point here is that the non-  
7 grain traffic is the incremental traffic on these  
8 lines.

9 Q. That was a decision, that is an arbitrary  
10 decision?

11 A. Not at all. You will remember the  
12 ratios we have showing the volume of grain to total  
13 traffic.

14 Q. So after you made this deduction to  
15 credit grain traffic by deducting from total expenses  
16 the revenues, the net revenues from non-grain traffic,  
17 the balance was 100 per cent assignable to grain?

18 A. The size related cost.

19 Q. The total cost of that branch line  
20 operation less the revenue from non-grain traffic was  
21 allocated to grain?

22 A. No, what was allocated to grain on  
23 branch line operations was, first of all, variable  
24 cost of grain, fuel and crew wages developed, as we  
25 reviewed a little earlier, I believe, plus size  
26 related cost. Those are the direct costs for  
27 maintenance and investment.

28 Q. And all those costs, Mr. Stenason,  
29 after crediting the line with the revenues from non-  
30 grain traffic to balance was charged against grain?





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1  
2 A. The balance of the solely related --  
3 of the size cost, yes.  
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1  
2 Q. And if the line was not solely related,  
3 I understand that only 15 per cent of the cost was borne  
4 by grain as grain share of the cost?

5 A. If the line is solely related the costs  
6 chargeable to grain are the variable cost over the  
7 line plus a share of the constant.

8 Q. So the difference is between the size  
9 related costs less a contribution of the grain plus  
10 - approximately 15 per cent and years, approximately.

11 A. Yes, approximately.

12 Q. Page 2579, half way down the page, a ques-  
13 tion by Mr. Sinclair:

14 "Did you charge a portion of the passenger train  
15 deficit to grain, Mr. Stenason?

16 "A. No, the railway's position is that the  
17 problem of matching revenue with the variable expense  
18 of operating passenger trains is a managerial one.  
19 Passenger traffic is incremental traffic. Therefore  
20 the passenger deficit has never been taken into account  
21 in considering the total cost of moving the study  
22 traffic."

23 Why was none of the constant costs charged  
24 to passenger services, constant costs of the C. P. R.

25 A. Well, constant costs, by their definition,  
26 cannot be charged or traced to a particular service.

27 Q. How much did you charge to grain of  
28 your constants?

29 A. 15 per cent.  
30







1  
2  
3 Q. Why don't you charge passenger 15 per  
4 cent?

5 A. Passenger is incremental traffic.

6 Q. It is really the concept involved and  
7 not the traceable one?

8 A. Both concepts..

9 Q. Since you have already been able to  
10 attach a constant factor to the grain traffic, is the  
11 fact that the C.P.R. considers passenger service to be  
12 incremental?

13 A. That is one of two considerations.

14 Q. You say you couldn't assign constant  
15 costs to passenger service?

16 A. No, I didn't say that. I said they  
17 could not be traced directly to passenger service.

18 Q. But you could do that?

19 A. Oh, you can do anything with figures.

20 Q. You say that passenger services are  
21 incremental. What about grain services? Why did you  
22 charge grain services with a constant factor?

23 A. Grain is a commodity which is basic  
24 to the plant.

25 Q. Would you define "basic to the plant"?

26 A. A category of traffic which makes a  
27 very large ~~sale~~ demand upon track facilities and the  
28 plant of the railway which amounts to a significant  
29 proportion of the total traffic volume.

30 Q. Would you also now define "solely related"?





1  
2 A. Solely related costs are the costs of  
3 facilities which can be directly traced to the traffic  
4 involved.

5 Q. Is there any point to distinguish be-  
6 tween basic to the plant and solely related?

7 A. Yes, I believe there is, Mr. Mauro.

8 Q. How would you describe the concept  
9 of basic to the plant and solely related?

10 A. Well, I have just explained solely  
11 related. In so far as basic to the plant is concerned,  
12 it is a matter of the volume of traffic under consider-  
13 ation in relation to the total volume moving over the  
14 line of the railway.

15 Q. This would be --

16 A. We are not tracing anything directly.  
17 I said it was a facility which could be directly  
18 traced.

19 Q. That is basic to the plant?

20 A. No, that is solely related.

21 Q. You told me that under basic to the  
22 plant it was a category of traffic that was of significance  
23 to the total volume being handled by the plant. Is  
24 this not an essential ingredient in your solely related  
25 content?

26 A. Yes, it is. But let's say it is a  
27 necessary but not sufficient condition for solely  
28 related.

29 Q. The ingredients of basic to the plant  
30







1  
2 are not sufficient --

3 A. Are necessary but not sufficient.

4 Q. If both grain and passenger traffic  
5 are burdens on the railway, how can they be compared  
6 unless both or neither are charged with constant costs?  
7

8 A. Will you repeat your question?

9 Q. Assuming that passenger services are  
10 a burden as representing deficit traffic, and assuming  
11 that grain is a burden as returning less than its variable  
12 costs, how can you compare the degree of burden unless  
13 either of them or neither of them are charged with the  
14 constant proportion of constant costs?

15 A. Well, passenger and grain are quite  
16 different. Passenger service is an area over which  
17 railway management can do something; grain is not.  
18 The characteristics of the two sets of markets are  
19 quite different. What was the type of question that  
20 you had in mind?

21 Q. It seems to me that you have nailed or  
22 affixed it to grain under your solely related phase the  
23 basic to the plant concept, because, as you told me a  
24 few moments ago, under the solely related concept you  
25 include as a necessary item the basic to the plant,  
26 but you go a little further and say in your cost study  
27 of the variable costs of grain you have poured into  
28 the grain bucket everything including the solely related  
29 branch lines, and then as a topping to it you say you  
30 are going to put a constant cost on grain but not on





1  
2 passenger?

3 A. You see, we have excluded the passenger  
4 deficit from the constant, and we have said that the  
5 constant expenses must be born by the grain traffic,  
6 and rates that would return less than the full cost  
7 of grain could not be compensatory.

8 Q. I understand that there are three general  
9 categories of course: firstly, passenger variable  
10 cost; secondly, freight and variable costs, and thirdly,  
11 system constant costs?

12 A. Yes.

13 Q. You have divided the grain portion of  
14 the system constant cost in relation to the total  
15 of grain variable costs?

16 A. Yes.

17 Q. Why not add a fourth category, namely,  
18 a passenger constant cost and divide the system  
19 constant cost between passenger and freight in the  
20 ratio that passenger variable cost is to freight  
21 variable cost?

22 A. I think it would be very unrealistic.

23 Q. When you are dealing with two burdens?

24 A. I think it would be unrealistic.

25 Q. I have been surrounded by questions as  
26 to why it is unrealistic.

27 MR. SINCLAIR: Because the witness gave  
28 the answers he put before the question was put.

29 MR. MAURO: Perhaps Mr. Sinclair would be  
30 kind enough to bear with us and we will try to work





1  
2 our way through it.

3 THE CHAIRMAN: Your simple question is what?

4 MR. MAURO: Q. Why is it unrealistic  
5 to divide the constant between freight and passenger  
6 in the ratio that passenger variable cost is to freight  
7 variable cost?

8 A. Because passenger is incremental to  
9 the operation as a whole. It is a deficit area at  
10 a variable cost level; the constant expenses of  
11 the operation could only be born by freight traffic.  
12 The nature of constant expense is such that it can't  
13 be directly traced to passenger service.

14 Q. It cannot be directly traced to freight  
15 service either; that is the reason it is constant  
16 instead of variable?

17 A. Well, it can be traced in this way, that  
18 if there was no freight service there would be no  
19 constant cost and there would be no revenues or  
20 expenses.

21 Q. If there were just passenger services,  
22 the passenger would have to pay both variable and  
23 constant?

24 A. If passenger was a economic service  
25 and freight was a non-economic service, then the  
26 passenger would bear the cost.

27 Q. When you are dealing with two uneconomic,  
28 two allegedly uneconomic portions of rail service,  
29 how can you compare them unless you are going to either  
30







1  
2 charge both of them with a portion of the constant  
3 or not charge either of them?

4 MR. SINCLAIR: Is that a question?

5 MR. MAURO: It certainly is a question.  
6 He has said it is uneconomic to charge passenger  
7 services.

8 MR. SINCLAIR: Unrealistic, he said.

9 MR. MAURO: Q. You said you cannot charge  
10 an uneconomic service with constant, and the reason  
11 is very clear, that you would be out of business. If  
12 there was only passenger service and it was operated  
13 at a deficit, you couldn't get your dividends because  
14 the service is operating at out-of-pocket costs?

15 A. Yes.

16 Q. And I say that this whole cost study  
17 is on grain traffic which the railways say is uneconomic,  
18 and how can you charge --

19 A. Because grain is non-economic, being  
20 regulatory or statutory other than for economic reasons.

21 Q. And the other is a result of management's  
22 decision?

23 A. It is a result of change in economic  
24 decisions which management is adapting to. It is  
25 adapting to the economic conditions.

26 Q. Page 2462, volume 18, at the bottom of  
27 the page:

28 "In the case of revenues for grain and grain  
29 products being moved under the stop-off privilege,  
30





1  
2 two separate waybills are prepared - one for grain  
3 moving into a mill and the other for grain products  
4 moving out of a mill".

5 Why has switching time chargeable to milling in  
6 transit been included in the grain cost study when  
7 the stop-off privileges are not in the statute?

8 A. Because milling in transit is part of  
9 the over all movement.

10 Q. It has nothing to do with the statutory  
11 rates?

12 A. The total movement of grain?

13 Q. No, the milling in transit privileges,  
14 the stop-off privileges. It has nothing to do with  
15 the carriage of grain to export; the stop-off rights  
16 are not prescribed by statute.

17 A. The milling in transit charge is not  
18 part of the statutory rate, that is correct.

19 Q. What is the charge of milling in transit  
20 supposed to cover? Isn't it suppose to cover the  
21 cost of that operation?

22 A. The tariff is rather unclear about this.  
23 So far as we have been able to determine, it is designed  
24 to cover extra-terminal services, which would be the  
25 additional classification time arriving from  
26 the mill and the movement of the car into the mill  
27 and out of the mill.

28 Q. And is it a compensatory rate in the  
29 tariff?

30 A. No, it is not, not according to calculations.







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Q. And it is not prescribed by statute?

A. No.

Q. And so therefore you have charged it to grain?

A. It is difficult, as I said, to distinguish this particular operation from the total movement of grain and grain products.

Q. I understand the item that you have put in as a loss factor for milling in transit is half a million dollars?

A. Do you have the reference?





1  
2 MR. SINCLAIR: I think we have discussed  
3 this in evidence in chief, if my recollection is correct,  
4 and I am still waiting for an answer as to whether the  
5 suggestion is being made that the milling in transit  
6 rate be increased. If it is, we would like to have  
7 that clear. Is that the suggestion that is being made?  
8 I think we discussed it once before and I was unable to  
9 get a clear answer.

10 THE CHAIRMAN: I think it is clear no such  
11 request has been made.

12 MR. MAURO: I am here and I do not intend  
13 to discuss the matter. I am here to discuss the pro-  
14 portion of costs allocated to statutory rates on grain,  
15 and I am suggesting that is not part of the cost of  
16 moving grain to points of export. My learned friend  
17 can deal with milling in transit when and if he  
18 desires, or, if he would like to treat milling in transit  
19 as other privileges -- before the Turgeon Commission we  
20 discussed the stopoff privileges, and it is pretty clear  
21 he said, before the Turgeon Commission, these were  
22 privileges voluntarily granted by the railways, and  
23 they want this milling in transit so they will get the  
24 further movement after milling has been completed.  
25 There is no more reason for my friend to get up with  
26 his veiled threat about wanting the milling in transit  
27 increased. I don't want him to do anything with that  
28 except get it off the back of the statutory rates on  
29 grain.  
30

MR. SINCLAIR: If my friend means he wants  
the statutory rates only to apply to grain and not to





1  
2 flour, that is the first step forward in this matter,  
3 and I take it it is his position.

4 THE CHAIRMAN: Well, we will hear more of  
5 that in argument.

6 MR. MAURO: We have heard consistently,  
7 Mr. Chairman, about the fact that the reason they are  
8 opposed to this particular problem is that they are  
9 imposed by statute and management cannot deal with them.

10 Q. The citation, Mr. Stenason, was a letter,  
11 November 27, 1959, to W. B. Saunders and Mr. R. L. Banks,  
12 your file F3-280. Request No. 3 on page 2:

13 "Request No. 3: Revenues and variable costs  
14 contained in the results of the study for the  
15 milling-in-transit privilege.

16 A. Revenues for the milling-in-transit privilege  
17 for the year 1958 restated at the level prevailing  
18 as at December, 1958, amounted to \$456,000.00.

19 Variable costs associated with this revenue amount  
20 to \$947,000.00."

21 The revenue is 456 and the costs 947: Charged to grain,  
22 the deficit portion, approximately half a million  
23 dollars; is that correct?  
24  
25  
26  
27  
28  
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1  
2 A. Yes, based on the allocation of what is  
3 meant, or, at least, based on an interpretation of the  
4 tariff, and the tariff indicates that milling in transit  
5 charge is to cover extra terminal services. This is  
6 not a straightforward thing by any means. Account milling  
7 in transit in this was based on that.

8 Q. Exhibit 63, 405, and perhaps you could  
9 have before you the C. N. R. exhibit, N.R.3-1 and 2  
10 of Exhibit 57 RR.

11 MR. SINCLAIR: There is apparently a revised  
12 sheet gone in on that.

13 MR. MAURO: Yes.

14 Q. You have charged to grain, account 227,  
15 Station and Office Buildings, and I believe 266, an  
16 amount of \$262,000; is that correct?

17 A. Yes, that is Maintenance of Station and  
18 Office Buildings.

19 Q. Has the C. N. R. charged any amount to  
20 grain as a variable cost under this item?

21 A. I see they have station and office buildings  
22 -- no, there is no coefficient reported here against  
23 carload traffic.

24 Q. I am instructed that the C. N. R. regression  
25 was:  $Y = \text{constant} + \$5.46795 \text{ times passenger car miles (in}$   
26  $\text{thousands}) + 4.4406 \text{ times l.c.l. carloadings, and it is}$   
27  $\text{stated no part of account 227 is allocated to grain.}$   
28  $\text{On the contrary, your regression work sheet shows this:}$   
29  $Y = \text{constant} + \$0.00616 \text{ times passenger car miles} + 1.33237$   
30  $\text{times carloads} + 7.05150 \text{ times l.c.l. carloads ?}$

A. That is correct.





1  
2 Q. How do you explain the existence of the  
3 carload variable in the C. P. R. regression and not in  
4 the C. N. R.?

5 A. The model has coefficients which are  
6 statistically significant at .99; the carload coefficient  
7 at .98. There could be a different behaviour of  
8 expenses in the two railways.

9 Q. Did you test the observation for western  
10 Canada to determine the significance of carload variables  
11 in western Canada?

12 A. These regression equations were run on  
13 the system as a whole.

14 Q. My question was, did you then test these  
15 regressions as variables in carload handlings in western  
16 Canada?

17 A. How do you mean -- test?

18 Q. Did you check them over the western region?

19 A. Yes, the alternative procedure to regression  
20 of handling both station expenses and maintenance of  
21 station and office buildings is through a time proration  
22 technique which I have described earlier. We did such  
23 study as part of the grain study. Now, what was done  
24 there was to take the time spent by station employees  
25 chargeable to grain service, and, as I understand  
26 it under I. C. C. practice, this proportion would be  
27 applied to the maintenance of station and office buildings  
28 as well as to the station expense. Therefore, I would  
29 say that the model is tested on that basis.

30 Q. In the explanation of the tests that you  
have just suggested, is that the only test that you know







1  
2 of that was performed on this expense account?

3 Because I have suggested to you that there is no  
4 variability.

5 A. Well, I have before me the print-out of  
6 the residuals; that is the difference between predicted  
7 and actual expenses -- actual expenses in the west and  
8 predicted expenses from the regression equation, and I  
9 find that the equation fits the western divisions.  
10 In many cases the actual expense is a little greater than  
11 the predicted expense, and I would assume from that that  
12 the variability would hold in the west as well as in the  
13 east.

14 Q. Did you have a carload variable --  
15 utilize a carload variable under this part of your study  
16 for the A. R. F. in the United States? The page I  
17 am looking at is 323. Perhaps we will just read that;  
18 page 323 in "The Economics of Competition in Transport-  
19 ation Industries" by Myer, Peck, Stenason and Zwick:

20 "Maintenance of Stations and Office Buildings:  
21 Maintenance of stations and office buildings  
22 clearly will vary with investment in these facil-  
23 ities and with the usage to which they are sub-  
24 jected. Investment, in turn, will reflect the  
25 geographical area served and the amount of traffic  
26 of different types carried by the road.

27 Selection of appropriate output variables  
28 proved difficult for this account because of the  
29 wide range of services provided at railroad  
30 "stations." Station facilities are used for the  
handling of express, mail, and other "head-end"





1  
2 "passenger traffic, certain types of freight, and  
3 passengers. No measure representing "station  
4 handling" of express, mail, and milk traffic was  
5 available; however, two closely related measures  
6 were tried: Car miles of mail, baggage, and  
7 express, and express, mail, and milk revenues.  
8 Tons of l.c.l. freight originated and gross ton  
9 miles of freight traffic were introduced as  
10 measures of freight needs, and number of passen-  
11 gers and revenue passenger miles as measures of  
12 passenger needs. The equation which provided the  
13 best explanation of expenses for maintenance of  
14 stations and office buildings proved to be: ---"  
15 and it is shown there.

16 "In preliminary testing, tons of l.c.l. freight  
17 originated proved to have greater significance  
18 than gross ton miles, freight; this reflects the  
19 greater use made of such facilities for l.c.l.  
20 freight."

21 A. I would like to point out that two  
22 analyses are not comparable. This aeronautical research  
23 foundation study had in it what is described in the book  
24 as pyramiding on investment against output units. The  
25 way in which this was done was to regress the maintenance  
26 expense against investment, and the investment in turn  
27 against certain output units. The model you have just  
28 referred to, we have an investment in station and office  
29 buildings, and I think -- I am not certain because I  
30 don't have the original study with me -- I think that  
investment in station and office buildings was in turn





1  
2 related to carload as well as l.c.l. variables, and that  
3 is your check.

4 Q. I am advised that in that original study  
5 of yours the most important factor you found was  
6 passenger revenue miles, and the next most important,  
7 less than carload traffic; this is on page 22 of the  
8 "Avoidable Costs of Passenger Train Service", a report  
9 prepared by the research committee of the Aeronautical  
10 Research Foundation, September, 1957, at page 22 -  
11 "Maintenance of Way and Structures".

12 A. Pardon me: The pyramiding here was done  
13 on the basis of the l.c.l., passenger car mile and revenue  
14 passenger mile variable.

15 Q. There was no pyramiding on carloads?

16 A. No. I wasn't certain on that.

17 Q. Mr. Stenason, I would like you also to  
18 take a look at Canadian National exhibit 57 ZZ, sheet  
19 5 --- that is, NR3-9..  
20

21 (Page 11798 follows)  
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Sheet 5 on NR 3-9, perhaps at the same time you could have beside you C.P.R. Exhibits 61 and 68 which are 403 and 410. Now, Mr. Stenason, sheet 5 of 457, pensions on the Canadian National exhibit, this clearly sets out the method of arriving at the charge under this account by the Canadian National Railways. They have taken 6 per cent of the labour costs attributable to -- they have taken 6 per cent of \$6,964,000 which is \$1,017,000 and made this a cost variable with the study traffic?

A. Yes.

Q. On Exhibit 61 you pointed out that pensions were allocated, account 457 was allocated, is that correct?

A. Yes.

Q. And then on 68 I take it that traffic in general including pensions, that is the item there 12.423 per cent?

A. Yes.

Q. Making up \$4,079,910 for the whole item?

A. Yes.

Q. Now, we have attempted to arrive at the figure you have and I was going to ask you to correct me and tell me the way in which Canadian Pacific had allocated this large amount to pensions against the study traffic. We have taken the total pensions of the C.P.R. as \$20,000,000 from D.B.S.?

A. Yes.

Q. Over \$277,000,000, the freight and





1  
2 operating expenses and arrived at a factor of 07 or  
3 7 per cent and multiplied this by the variable cost  
4 of the study traffic which was \$32,841,000 and we come  
5 up with \$2.4 million dollars as chargeable to the  
6 study traffic for pensions?

7 A. Well, I have a note from some calculations  
8 you made this morning with pensions when you were  
9 going through the ratio and general expenses that you  
10 had found, 1.9 million.

11 Q. That is the reason why -- I cannot come  
12 up with the exact figure that is included in your break-  
13 down as allocatable to pensions and since the C.N.R.  
14 has advised us very clearly how they did it I wonder  
15 if you would tell us how you arrived at the amount,  
16 what is the amount chargeable to grain traffic for  
17 your pensions?

18 A. Well, the pension expense was treated  
19 similarly to the traffic and general expense as a whole  
20 and the passenger was separated. In other words,  
21 the balance was constant in freight and then the  
22 proportion that total traffic in general expense bore  
23 to total freight and freight variable operating  
24 expenses plus constant was arrived at and this was  
25 applied to the base figures on grain.

26 Q. Why would you not have applied on the  
27 same basis as the C.N.R. taking the labour expenses  
28 that were directly chargeable to the grain traffic  
29 and taking a percentage of that labour expense?

30 A. Well, I am not familiar with what the







1  
2 percentage is based on.

3 Q. Well, the Canadian National is pretty  
4 clear, it is 6 per cent, .06?

5 A. Well, there may be differences. Is  
6 your question this: Do you want me to calculate the  
7 pension expense?

8 Q. Yes, I would be interested in finding  
9 out what is the exact amount charged to grain on the  
10 C.P.R. study for pensions and what it would have been  
11 if that utilized by the Canadian National was intro-  
12 duced?

13 MR. SINCLAIR: Well, the witness has  
14 said he does not know what method Candian National used.

15 THE CHAIRMAN: Well, I think Mr. Mauro  
16 told him.

17 MR. SINCLAIR: He told him it was 6 per  
18 cent but of what and why?

19 MR. MAURO: 6 per cent of the labour  
20 expense variable with the study traffic.

21 MR. SINCLAIR: Of course, we have different  
22 pension plans.

23 THE CHAIRMAN: Perhaps Mr. Stenason can  
24 see Mr. Bandeen at the break which we will have now.

25 MR. SINCLAIR: We can make all kinds of  
26 calculations but we have a different pension plan than the  
27 Canadian National. I do not know if this has anything  
28 to do with it or not.

29 --- Short recess.  
30





1  
2 THE CHAIRMAN: Order, please. Mr. Mauro?

3 MR. MAURO: Q. Mr. Stenason, subject  
4 to the way you work out your proposal and the information  
5 you may subsequently give, the fact is that the manner  
6 in which you treated pensions in your study results in  
7 a cost almost twice that of what the Canadian  
8 National has charged; the Canadian National is \$1,017,000  
9 according to our most recent calculation and \$1,979,940  
10 for the Canadian Pacific?

11 A. Is that your final calculation?

12 Q. That was the way we broke it down on  
13 the 11.88 per cent.

14 A. I discussed this ratio. This arose  
15 from an actuarial study which the Canadian National have  
16 and this reflects the way in which the pension plan  
17 operates. It is on a funding basis and ours is not  
18 worked that way, it is on a current expense basis and  
19 we have no actuarial study. The critical thing here  
20 is the rate so I doubt very much that I can perform the  
21 calculations in this manner.

22 Q. Assuming our calculations to be correct?

23 A. Now, insofar as the difference is  
24 concerned, part of it is explained by the different  
25 volume because Canadian Pacific has a greater volume  
26 of grain and grain products than does the Canadian  
27 National.

28 Q. Also your method of turning this  
29 factor in the manner which we discussed this morning,  
30 instead of the 6 per cent based on the cost of labour





1  
2 results in your factor being 11.828 per cent of  
3 \$16,700,000 as opposed to 6 per cent or 7 per cent,  
4 a smaller factor as utilized by the Canadian National  
5 Railways. If you turn to Exhibit 66.

6 THE CHAIRMAN: Do you want to comment  
7 on that, Mr. Stenason?

8 A. Well, I want to go a little more into  
9 this factor, sir, before I do.

10 THE CHAIRMAN: You will, just for the  
11 record?

12 A. Yes, I will.

13 MR. SINCLAIR: I will ask him questions  
14 on that.

15 THE CHAIRMAN: Very well.

16 MR. MAURO: Q. Exhibit 60, statement 408.  
17 Now, under "switching miles", Mr. Stenason, there  
18 appears a variable of .84033 and this I understand,  
19 was arrived at by determining by regression, a variable  
20 investment charged on \$12.6634?

21 A. That was the first step.

22 Q. Then you deducted 36.07 per cent as  
23 accrued depreciation and the remainder was multiplied  
24 by 10.38 per cent being your assumed cost of money?

25 A. Being the cost of money as developed.

26 Q. This results in a figure of .84033?

27 A. Yes.

28 Q. And a total charge of \$914,738 against  
29 grain?

30 A. Yes.







1  
2 Q. Was the variable of 12.66 in your  
3 opinion, statistically significant at the 5 per cent  
4 level? I understand you had a T value of 1.87?

5 A. Yes, that is right.

6 Q. Do you feel that is statistically  
7 significant at the 5 per cent level?

8 A. Just a minute, I will have to get a  
9 table. This is statistically significant at  
10 approximately 7 per cent, between 6 per cent and 7  
11 per cent as I recall or 93 per cent.

12 Q. It would not be significant at the 5  
13 per cent, would it?

14 A. That would mean a level of statistical  
15 significance less than 95 and more than 5.

16 Have you worked out what the statistical  
17 level was?

18 A. No, I have not.

19 Q. It is above 5, you are satisfied it  
20 was above 5?

21 A. Yes.

22 Q. Now, you have mentioned, Mr. Stenason,  
23 that in operating a railway such as the Canadian  
24 National one has to consider a geographic consideration  
25 and operating conditions and you as a costing expert  
26 would also have to consider traffic composition,  
27 passenger service, length of run, terrain, terminal  
28 facilities, to a degree of organization among other  
29 things. You as a statistician deal with those  
30 operations in arriving at an overall cost picture?





1  
2 A. Well, it depends upon the method that  
3 you use. Insofar as fuel and crew wages are concerned  
4 we have actual fuel and car wages which reflect the  
5 work which was performed and the conditions under which it  
6 was performed. Now, this applies to all the traffic  
7 expenses. On the regression equation, then, we have  
8 two -- pardon me, there are several alternatives here  
9 and a number of tests. As you are aware the  
10 regression equations were fitted to all divisions  
11 of Canadian Pacific excluding Canadian Pacific Electric  
12 Lines which has a different technology, including or  
13 excluding terminal divisions depending on whether an  
14 analysis of scatter diagrams indicated that the  
15 observation in terminal divisions were in line with  
16 those on the line haul divisions. The regression  
17 equation is fitted and the returns, this is an im-  
18 portant test, the returns or the difference between  
19 the projected and the actual value of that regression  
20 equation by division were carefully analysed to  
21 disband any factor which might reflect geographical  
22 considerations, east versus west, or particular types  
23 of operating resume'.  
24  
25 -  
26  
27 -  
28  
29 -  
30







1  
2 Q. Could you advise us of what test the  
3 C.P.R. has run on its regression equation and cross-  
4 section data to determine whether unit co-efficients  
5 existed between the east and west coasts of the  
6 railway, and what tests did you run to explain cost  
7 variability within each region taken separately?

8 A. The first test was an analysis of the  
9 residuals, and the purpose of this test was to see  
10 whether the equation fitted east and west equally well.  
11 The second test was a rather complicated statistical  
12 test which is used to determine the co-variance analysis.  
13 Now, this is the fitting of the separate regression  
14 equations in the west with the separate regression  
15 equations in the east. This is quite a complicated  
16 test. It was applied to the important cost models,  
17 that is the track maintenance and the road property  
18 investment, and one of the overhead accounts. I can  
19 go into this in detail. The nature of the test is  
20 to run the regressions separately in the east and in the  
21 west and then compare the summation of the residual  
22 squared in the east plus the residual squared in the  
23 west in relation to the residual square which arose  
24 from the single regression equation and then test  
25 whether the ratio of these two quantities is insignifi-  
26 cant or significant, using a standard F test.

27 Q. Is your conclusion that the co-variance  
28 analysis did not produce significant results?

29 A. That is correct, in the accounts it  
30 was tested against.





1  
2 Q. Now, in the costing of grain have you  
3 made any allowance for the economics of handling  
4 grain as a heavy loading commodity?

5 A. Yes, we have reflected the cost of  
6 the operation, and we have therefore taken into account  
7 the economics that may exist.

8 Q. You would agree that the average load  
9 of a car of grain is approximately 35 tons?

10 A. Yes, and that is contained in the basic  
11 output units.

12 Q. And I assume it would be cheaper in the  
13 long run to haul a car, a heavy-load commodity than  
14 an average load of, say, 40 tons?

15 A. Yes. It means that for a given number  
16 of revenue ton miles you have fewer gross ton miles  
17 because you have fewer cars.

18 Q. If you had used car miles instead of  
19 gross ton miles, would these loading characteristics  
20 of grain have been more clearly reflected?

21 A. I would not have agreed with the use  
22 of car miles as a factor in costing because it does  
23 not weight-out as well the characteristics or the factors  
24 which give rise to such things as track and road main-  
25 tenance. Gross ton miles is a much better unit than  
26 car miles.

27 Q. Would the use of car miles instead of  
28 gross ton miles have resulted in a lower cost per  
29 unit, if you had used car miles?

30 A. I don't know how this question is coming.





1  
2 Do you mean this, that had we used car miles in  
3 developing the basic unit cost and then applied that  
4 to grain?

5 Q. Yes.

6 A. I would think that that would result  
7 in higher cost of grain.

8 Q. And if you had used car miles in  
9 building up this grain?

10 A. I am sure I would have had a higher  
11 cost because of fuel and crew wages, because grain  
12 is a heavier loaded commodity than the average commod-  
13 ity.

14 Q. Now, I quoted to you this morning,  
15 Mr. Stenason, a statement of Mr. Arkle concerning  
16 the large heavy tonnage trains moving from Winnipeg  
17 to Fort William. You might have that in your mind,  
18 and I wanted to ask you - I have been advised that  
19 you costed the movement of grain in trains of average  
20 tonnage?

21 A. Average through trains, and grain  
22 moves on through trains.

23 Q. If it does move on trains at maximum  
24 tonnage, would there have to be adjustments?

25 A. We have established from samples and  
26 surveys that it does not. When we did the costing  
27 we costed it on the basis of average through trains.  
28 We then went back and worked with the conductors'  
29 wheel reports and established a weighted average  
30 weight of grain train. We were able to take the







1  
2 average weight of extra trains and the average weight  
3 of through trains and the proportion of grain moving  
4 on extra trains and the porportion of grain mvoing  
5 on through trains.

6 Q. In determining the number of engine  
7 minutes devoted to switching grain cars, what allowance  
8 has the C.P.R. made for the fact that the average number  
9 of grain cars per cut exceeds the size of cut on non-  
10 grain cars?

11 A. I have not had it established that it  
12 is a fact that the average number of grain cars per  
13 cut exceeds that for all traffic. As a matter of  
14 fact, a study was done in Windsor station with one  
15 of your consultants, and we took three yards, Calgary,  
16 Saskatoon and Souris, working from the switch lists  
17 and determined the average number of cuts per car for  
18 grain and for all traffic, and we found that they  
19 were identical at Calgary and Saskatoon, and that  
20 there were more cars per cut on grain at Souris, which  
21 was the third study, and of all traffic.

22 Q. I understand that as a result of the  
23 studies made with our constultants, in fact, at  
24 Calgary the average cut per grain car was 3.3, all  
25 other traffic 2.6?

26 A. Those figures don't sound --

27 Q. The Southerland yard --

28 A. My figures are different.

29 Q. The ones I have are: Saskatoon, grain,  
30 2.64; all other, 2.57. Souris yard, grain, 7.2 per cut;





1  
2 all other 3.2 per cut?

3 A. Well, pardon me, my figures, except for  
4 Calgary, are similar. I have grain at Calgary 3.08,  
5 and all others at Calgary 2.5, that is all loads and  
6 empties.

7 Q. Calgary is 3.08 per cut, and all others  
8 2.5?

9 A. Yes. This means that at one yard there  
10 is a significant difference in the number of cars per  
11 cut.

12 Q. That is the Souris traffic?

13 A. Yes.

14 Q. At the Saskatoon yard it was showed  
15 that during that period there was no variability. There  
16 doesn't appear to be any change between the handling  
17 of grain and all other commodities?

18 A. That is because grain is basis of  
19 the traffic moving.

20 Q. Are you familiar with an article in  
21 The Railway Age, January 4th, 1960, entitled "How  
22 cars in muntiple cut costs"? It is commonly referred  
23 to as the Wright formula?

24 A. Yes, I am familiar with the article, and  
25 I might say we tested this formula in Canadian Pacific.

26 Q. What did you come up with?

27 A. With a disagreement with Mr. Wright on  
28 the influence of size of cut on yard costs.

29 Q. It certainly would have made a difference  
30 if Mr. Wright was correct?







1  
2 A. On the basis of the evidence we have,  
3 I doubt if it would make a difference.

4 Q. Because it drops the average engine  
5 minutes per car to his formula where one car represents  
6 100 per cent --

7 MR. SINCLAIR: My friend has heard the witness  
8 say it isn't applicable to Canadian Pacific. I don't  
9 know why we are going further into this.

10 MR. MAURO: Q. I want to compare his allega-  
11 tions with your findings, and he says a cut of three  
12 cars drops the average engine minutes from 100 per  
13 cent to 39.43 per cent, or cuts it one third, and a  
14 cut of seven cars drops it to 22 per cent of the time  
15 involved in cutting one car. What was your finding?

16 A. Well, we tested Mr. Wright's article  
17 against our switching experience in Winnipeg where we  
18 have had yard studies underway for some time, and we found  
19 on the basis of the actual observations of cuts  
20 which had been made and the number of cars in the cuts  
21 as significant reduction from one car per cut to two  
22 cars per cut, or approximately, that thereafter in-  
23 conclusive results. Let me read you, for example, one  
24 task which is called a kick cut to clear task. The  
25 figures I will read are the figures in time per additional  
26 car per cut. At 3 we have an additional time of .100  
27 minutes; at 4 of .087, 5 of .086, 6 of .108; 7 of .097;  
28 8 of .090; 9 of .097. These are based on actual switch-  
29 ing observations.

30 Q. Did you start from one or three?





1  
2 A. I started at three.

3 Q. What is one?

4 A. Number one is .060; from 2 to 3 .080.

5 Q. I wonder if you could provide us with  
6 a copy of that Winnipeg test?

7 A. Yes.

8 MR. SINCLAIR: He has put the figures on the  
9 record now. That is the test.

10 THE WITNESS: The data is in Winnipeg. I  
11 have the summaries here of it.

12 COMMISSIONER BALCH: Was that a flat yard?

13 THE WITNESS: Yes, this was Winnipeg yard.

14 MR. MAURO: Q. I have been asked also  
15 if you would provide the equation that you use to  
16 arrive at these figures?

17 A. There is no equation. These are based  
18 on actual observations and the only equation would be  
19 dividing the additional time --

20 Q. Was it a straight time test?

21 A. Yes, the actual time observations were  
22 collected.

23  
24 (Page 11819 follows)  
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26  
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1  
2 Q. You didn't work out any average for  
3 switching one car --- engine minutes for switching  
4 one car?

5 A. We have that available.

6 Q. Is there any cross-haul of empty cars  
7 by the C. P. R.?

8 A. I think every railway has some degree of  
9 cross-haul of empty cars.

10 Q. I wondered if this would appear in the  
11 routing of the 3700 sample you used in computing your  
12 empty car figure?

13 A. Yes, your experts drew to our attention  
14 some instances in which cross-haul of empties was  
15 involved.

16 Q. And as a result, this would overstate the  
17 empty car mileage and the cost attributable to grain?

18 A. It was a very small amount, and we found  
19 that the figures which your people had taken off over-  
20 stated the amount of cross-haul. I think it was something  
21 -- I don't have the figure here -- I think it was  
22 something like 100,000 car miles out of 130 million.

23 Q. I have here a summary of empty car move-  
24 ment by grain to Victoria, and the instructions on the  
25 back say,

26 "Where single letter is shown means car moved  
27 through terminal without changing direction."  
28 I see in an item under Fort MacLeod, 532 ----

29 A. Yes.

30 Q. Moving north. I wonder if you would tell  
me what railway comes into Fort MacLeod from the south?







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A. This could be a branch line.

Q. Could you ascertain if there is any C. P. R. line going into Fort MacLeod from the south? So that there isn't too much time spent, you will admit, I think, there is no railway coming into Fort MacLeod from the south?

A. I won't admit that. There is a sub-division.

THE CHAIRMAN: I think Mr. Sinclair would admit that.

MR. SINCLAIR: That there was no railway into Fort MacLeod from the south?

THE CHAIRMAN: No C. P. R. railway?

MR. SINCLAIR: Mr. Chairman, I would not admit anything until I talked with the people who know something about the railroad.

MR. STENASON: We are still working it out. We will give you the answer to that.

MR. MAURO: Q. You are working it out: Well, you are going to have to do some fast constructing.

A. I believe it is an east and south direction that is involved.

MR. SINCLAIR: This is railroad direction rather than geographical direction.

MR. MAURO: Q. There is a single letter, denoting there was no change of direction, and if this car moved into Fort MacLeod from the south on the C. P. R. it certainly couldn't change direction because it wasn't on any rail line when it came into Fort MacLeod from the south.





1 A. We will have to look this up and trace  
2 it up.

3 MR. SINCLAIR: Who took the figures off and  
4 put the designations on? Was this some of the work  
5 done by your consultants?

6 MR. MAURO: We are ready to admit our error  
7 if we find this is not right.

8 THE CHARIMAN: I think there is probably  
9 an error in there because there is only one railway  
10 in south Alberta.

11 MR. SINCLAIR: We will be glad to look into  
12 it.

13 MR. MAURO: Q. We also noted that in the  
14 case of the Moose Jaw terminal, while 21,000 empty cars  
15 were moving in from the east and 21,000 empty cars  
16 moving west out of Moose Jaw 884 empty cars were  
17 moving east into Moose Jaw and the same number moving  
18 out of Moose Jaw. I suggest that you have simply  
19 taken everything that was ever empty in western Canada  
20 during the period and balanced off the cars moving  
21 in and out through the various subdivisions and added  
22 it all up to the empty car days attributable to grain?

23 A. No sir; we traced the empty cars and  
24 the empty car days and the empty car miles and cars  
25 used on grain loading.

26 Q. You didn't happen to see any coincidental  
27 factor of 35 empty car miles through each of the sub-  
28 divisions from Arcola west and north?

29 A. Yes, this had to do with milling in  
30 transit traffic to Winnipeg, and the answer to this  
is the rounding out of the number of cars going in to  
the mills at Winnipeg, from our sample, to the number







1  
2 of cars -- that is, the total population of cars  
3 moving over these particular sub-divisions.

4 Q. Wasn't it very fortunate for your  
5 calculations that Arcola was 35, Brooks was 35,  
6 Empress was 35?

7 A. Yes, but you don't understand the  
8 process of milling in transit?

9 Q. No, I don't.

10 A. The empty car miles of milling in  
11 transit traffic were developed on the basis of a  
12 sample, and the routing was secured from the cancellation  
13 of the waybills. On milling in transit the  
14 inward waybill is cancelled with outward waybills,  
15 and we round it off to the nearest car which would  
16 have made one car which was expanded from the sample  
17 to produce an estimate as to the total empty car  
18 mileage involved.

19 Q. So I am correct if you take the east  
20 and south: Cranbrook 35; Crow's Nest 35; Fife  
21 Lake 35; Ignace 35; Kaministiquia 35; Keewatin 35;  
22 Lanigan 35; Macleod 35; Portal 35; Stirling 35.

23 A. Well, as I say, that was the inward empty  
24 miles prorated.

25 Q. And then you took this factor of 70,  
26 105 and 140?

27 A. This occurred only in the case of  
28 Winnipeg milling in transit traffic, and there  
29 was a very real reason for it.

30 Q. That is a precise determination, is it?

A. Yes, through the sample.





1  
2 Q. Exhibit 64, Mr. Stenason; that is  
3 statement 406: The C.P.R. has charged grain with  
4 3,385,910 active car days at a cost of \$3,500,000 for  
5 freight car repairs and depreciation?

6 A. Yes, this was reduced in the revisions  
7 I presented this morning. There was a small change  
8 there. The active car days are 3,208,000.

9 Q. You have not made much of a change there?

10 A. No. Of course, the treatment of car  
11 repair and depreciation expense was modified. It  
12 is based on a calendar car day basis rather than an  
13 active car day.

14 Q. In determining these car days the C.P.R.  
15 used the following procedure, as I understand it: For  
16 system car days you utilized Rail Form A procedures?

17 A. No, sir.

18 Q. You didn't use a statistical method  
19 of determining the car days?

20 A. Not in the revisions. That was done  
21 initially.

22 Q. Under the revision what system did  
23 you use?

24 A. We traced a sample of Canadian Pacific  
25 cars which had been used in grain loading in 1958.  
26 We traced it for the year as a whole and we counted  
27 the days the cars were active and the days they were  
28 idle, which led to the development of an active car  
29 ratio.

30 Q. Have you work paper No. 35 with you?





1  
2 A. Yes.

3 Q. Perhaps we could take a look at that?

4 MR. SINCLAIR: The only one we have  
5 here is to make up the car days under the revision.

6 MR. MAURO: Q. You don't have working  
7 paper 35. What are the system car days that you have  
8 before you -- the total system car days?

9 A. Total system calendar car days. This  
10 is the way in which it is developed. They are 29  
11 million odd. These are calendar car days rather  
12 than active car days.

13 Q. And you used the same method on the  
14 grain?

15 A. We used calendar car days on grain.

16 Q. Did you use the waybills and the  
17 conductors wheel reports to construct the number of  
18 trains and train miles for loaded grain cars and the  
19 wage costs?

20 A. No, they were tested through samples  
21 drawn from the conductors wheel reports.

22 Q. Wouldn't it have been more accurate  
23 if you had used the waybills and the conductors  
24 wheel reports?

25 A. No, I don't see that it would be if  
26 the tests show that the method followed was appropriate.

27 Q. Your actual average weight of train  
28 in determining the number of trains from which you  
29 built the following costs: The cost per ton mile  
30 and the cost per locomotive mile?







1  
2 A. We used the average weight of through  
3 trains by train-run by direction in computing the  
4 number of train miles of grain, with an allowance  
5 for the resistance factor over each sub-division.

6 Q. And it was from this statistic that you  
7 developed the cost per train mile and the cost per  
8 locomotive mile?

9 A. The fuel and wage costs were actual.  
10 They are kept in the basic records of the company.  
11 The unit locomotive repair expenses -- at least, the  
12 locomotive cost was developed by applying the loco-  
13 motive miles to the unit locomotive repair expense.

14 Q. But isn't the weight of the train the  
15 key factor in developing these costs -- the weight  
16 of the train?

17 A. Yes, it is.

18 Q. Well then, could you not have drawn from  
19 the records at originating stations and the conductors  
20 wheel reports which would have given an exact tracing  
21 of all traffic, from which car miles and car days  
22 and train miles could be developed, and also the  
23 heavier weight of the grain trains would be reflected?

24 A. There is no need to use a complicated  
25 procedure when a simpler procedure, with tests,  
26 produces the same results. It would be an extremely  
27 complicated matter to go through all of the wheel  
28 reports on Canadian Pacific for 1958.

29 Q. I suggest to you that you substituted a  
30





1  
2 hypothesis: You hypothesized the load movement on  
3 the basis of an arbitrarily selected routing pattern?

4 A. No, we used as our analysis of routing  
5 the manner in which the traffic moved -- we traced it  
6 through the survey.

7 Q. From the material I have suggested you  
8 had within your power to examine, you could have  
9 determined the actual car miles; is that correct?

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1  
2 A. The routing analysis was tested from  
3 a sample of the car service records on the traffic and  
4 that check showed that the routing pattern in fact,  
5 tended to underestimate the total loaded car miles  
6 of grain because the routing pattern did not reflect  
7 any detours which might have been caused as a result  
8 of operating exigencies.

9 Q. And did your check against wheel reports  
10 also show that you understated the average weights of  
11 the trains?

12 A. No, the check against wheel reports  
13 showed a difference of about 200 tons between the  
14 constructed average weight of grain train and the  
15 average rate of through train -- all weighted out by  
16 train runs in which grain is handled. This sample  
17 was taken in 1959 which was the year -- which was the  
18 earliest year we had for train weights by type of  
19 train by train run and by direction.

20 Q. I wonder would it be possible to have  
21 that work paper 35 available for our consultants?

22 A. Work paper 35 revised?

23 Q. Yes.

24 A. Yes. We do not have copies of it here.

25 MR. SINCLAIR: We will send it down and  
26 get it Xerox-ed and get it back.

27 MR. MAURO: Thank you.

28 Q. I have been advised that on some of  
29 these empty car movements that the grain was charged  
30 with movements west in British Columbia, empty cars





1  
2 car movement west in British Columbia. Could that  
3 possibly have crept into your calculations?

4 A. At some of the cross haul that is done  
5 in the tracing of the empty cars. There is a very  
6 small amount involved.

7 Q. The empty box cars in British Columbia  
8 went west and then east and grain was charged for the  
9 empty movement on both the western empty movement in  
10 the province of British Columbia and the eastern empty  
11 movement?

12 A. The cars were loaded with grain and,  
13 therefore, the empty movement is traceable to grain.

14 Q. This empty car in the Cascade sub-  
15 division, did they have grain, going to pick up grain  
16 in Vancouver?

17 A. No, it was used ultimately for grain  
18 loading.

19 Q. It got all the way back east into  
20 Saskatchewan so it got into that both the post and  
21 prior on that empty movement?

22 A. No, it was all in the prior empty  
23 movement when the car was taken. There is something  
24 like 100,000 empty car miles out of 70 million.

25 Q. Is it not true that the Canadian  
26 Pacific Railway has hump switching yards in Winnipeg,  
27 Calgary and Fort William?

28 A. Yes.

29 Q. Were costs of these yards taken into  
30 account?





1 A. Yes.

2 Q. Is it cheaper to use a hump yard?

3 A. Pardon me while I consult with my yard  
4 expert. The hump yards were built because they are  
5 cheaper than flat switching for the particular mix  
6 of traffic and volume of traffic.

7 Q. How do you count engine minutes per  
8 car in the hump yard?

9 A. The total amount of time spent by  
10 engines, this is in classification, and the total cars  
11 handled in the classification area.

12 Q. You take all the cars in the classification  
13 area, the total number of minutes spent in humping all  
14 of these cars and you divide it into the number of  
15 cars and come up with the average?

16 A. That is right.

17 Q. And if there were humping cuts of 4  
18 and 5 cars of grain to single cars of other industrial  
19 traffic, grain would bear proportionately the time that  
20 it took to hump them all?

21 A. All traffic is handled by direction of  
22 movement. In a similar way, insofar as the number  
23 of cars per cut are concerned, the fact that this car  
24 was non-grain is not an important consideration, the  
25 destination point is.

26 Q. Are taxes borne uniformly throughout the  
27 system or are they higher in densely populated areas?

28 A. Property taxes?

29 Q. Yes?







1  
2 MR. SINCLAIR: Well, it all depends on what  
3 province you are dealing with a lot of other things.  
4 I do not know how my friend can expect the witness  
5 to answer a general question about tax laws in Canada.

6 MR. MAURO: I thought perhaps making this  
7 statistical survey he came up with factors that would  
8 reflect various tax levels based on population, density  
9 of population. In other words, we would expect that  
10 the plant of the Canadian Pacific in the City of  
11 Montreal might attract appreciably more taxes than in  
12 the City of Moose Jaw.

13 MR. SINCLAIR: Of course there are a lot of  
14 things that attract more taxes, maybe a bigger plant  
15 and I think it is. It may be a higher tax rate and  
16 I think it is. We are giving the total taxes by province.

17 MR. MAURO: Q. All I asked Mr. Stenason  
18 was whether or not in your study you were able to  
19 determine the taxes borne uniformly throughout the  
20 system or whether or not there was a change of value  
21 due to plant in urban areas or more densely populated  
22 areas?

23 A. As I said this morning, as a test we  
24 developed the property taxes chargeable to grain on  
25 the basis of property taxes payable in the western  
26 provinces. I have not carried this a further step  
27 to test whether the taxes are higher in urban areas  
28 or not.

29 Q. What taxes could you avoid if there was  
30 no grain traffic in Canada?





1  
2 A. Solely related is a start, given a  
3 long term for adjustment our road property investment  
4 would be scaled down considerably. Whatever taxes  
5 are based on the availability of road - whatever  
6 taxes are based on valuation of property would in the  
7 long term be scaled down. Sales tax, unemployment  
8 taxes, excise taxes.

9 Q. Have you ascertained on an avoidable cost  
10 basis the amount of saving in taxes which would be  
11 brought about if the C.P.R. did not have grain traffic  
12 at all?

13 A. What do you mean by "an avoidable cost  
14 basis"?

15 Q. Assuming the traffic did not exist,  
16 that is one method of ascertaining the cost of the  
17 traffic. Now, there are taxes as a fixed cost, if  
18 you do not have any grain traffic at all could you  
19 tell us what the C.P.R. would save?

20 MR. SINCLAIR: Of course, Mr. Chairman, I  
21 must object here. Our position is that an avoidable  
22 cost concept is meaningless applied to a volume movement  
23 of a crop on which the western economy is based. As  
24 far as we know it will be based on that for some time  
25 in the future and this principle of avoidable cost  
26 concept is not appropriate. Why should we get into  
27 evidence that is not appropriate.

28 MR. MAURO: The only reason I introduced it  
29 was Mr. Stenason had taken a very active and important  
30 role in this first real study of multiple regression







1  
2 called avoidable costs of passenger train service and  
3 I thought in utilizing his method in Canada he had  
4 used avoidable cost approach and he should tell us  
5 how much they would save.

6 MR. SINCLAIR: As we all know, passenger train  
7 service is avoidable and great steps have been made  
8 both in the United States and in Canada to avoid this  
9 traffic but this is entirely different with respect  
10 to the movement of grain.

11 THE CHAIRMAN: The witness can dispose of  
12 it by simply saying he did not consider it.

13 MR. MAURO: Mr. Sinclair should not be getting  
14 up to make speeches.

15 MR. SINCLAIR: I am merely objecting.

16 MR. MAURO: The witness can answer fairly  
17 straight-forwardly whether or not in his analysis of  
18 the cost of study traffic he approached it from the  
19 view point of avoidable cost and if so can he tell us  
20 how much taxes the C.P.R. could save if they did not  
21 have any grain traffic at all.

22 A. We do not have an estimate as to the  
23 taxes which could be saved if Canadian Pacific did  
24 not handle grain traffic. We do have the taxes separated  
25 for the small related lines. There would be additional  
26 savings in taxes. Throughout these studies variable  
27 cost is used as a proxy for avoidable cost and the  
28 technique which was used in the test as referred to  
29 earlier was on the basis of availability.

30 Q. Have you any statement that you might

[The text on this page is extremely faint and illegible. It appears to be a list or index of names and titles, possibly from a historical document or a library catalog. The entries are arranged in columns, with some text appearing to be in a different script or language than the header. Due to the low contrast and blurriness, specific words cannot be transcribed.]



1 submit as to the amount of taxes relating to stations,  
2 terminals used mainly for passenger and LCL traffic?  
3

4 A. No.

5 Q. You do not have a statement on the com-  
6 plex in Montreal's Windsor Station and your portion  
7 of the costs of other terminals and the taxes in the  
8 large cities in Canada?

9 A. No.

10 Q. What that amounts to?

11 A. We do not have it readily available.

12 MR. MAURO: Would you like to stop here,  
13 Mr. Chairman?

14 THE CHAIRMAN: Yes, I think we will. We  
15 will adjourn until 9.30 tomorrow morning. Counsel have  
16 agreed that it might be better to sit from 9.30 to  
17 noon and then 2.00 o'clock to 4.30 and from the view  
18 point of the transcript and so on that it is better  
19 to stop at 4.30 rather than 5 00. We are not anxious  
20 to work any longer hours but we are anxious to  
21 accommodate the officials and consultants who are here  
22 and want to get away. I think it is agreed that  
23 Mr. MacKimmie will carry on at 9.30 tomorrow morning  
24 interrupting the cross-examination of Mr. Mauro.

25 MR. MAURO: I might say I will not be as  
26 long as I had previously estimated.

27 THE CHAIRMAN: Well, Mr. MacKimmie will be  
28 ready at 9.30?

29 MR. MacKIMMIE: Yes, thank you, sir.

30 THE CHAIRMAN: We will adjourn until 9.30.

---Adjournment.













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